

ACT 96

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S.B. NO. 195

A Bill for an Act Relating to Medical Torts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 671-12, Hawaii Revised Statutes, is amended to read as follows:

“§671-12 Review by panel required; notice; presentation of claims[.]; request for a more definite statement of the claim. (a) Effective July 1, 1976, any person or the person’s representative claiming that a medical tort has been committed shall submit a statement of the claim to the medical claim conciliation panel before a suit based on the claim may be commenced in any court of this State. Claims shall be submitted to the medical claim conciliation panel in writing. The claimant shall set forth facts upon which the claim is based and shall include the names of all parties against whom the claim is or may be made who are then known to the claimant.

(b) Within five business days thereafter the panel shall give notice of the claim[,] and the statement of the claim, by certified mail, to all health care providers and others who are or may be parties to the claim and shall furnish copies of written claims to such persons. Such notice shall set forth a date, not more than twenty days after mailing the notice, within which any health care provider against whom a claim is made [may] shall file a written response to the claim, and a date and time, not less than five days following the last date for filing a response, for a hearing of the panel. Such notice shall describe the nature and purpose of the panel’s proceedings and shall designate the place of the meeting. The times originally set forth in the notice may be enlarged by the chairperson, on due notice to all parties, for good cause.

(c) If the statement of the claim in the notice is so vague or ambiguous that any party receiving notice of the claim cannot reasonably be required to frame a written response, the party may submit a written request to the director of commerce and consumer affairs for a more definite statement before filing the written response. Copies of the request shall be provided to the panel, the claimant, and other affected parties. The request, which shall be ex parte and stay the proceedings of the panel until notice of the director’s decision is given to the panel and all parties, shall specify the defects complained of and the details desired. The director may deny, grant, or modify the request at the director’s own discretion, without the necessity of a hearing, although the director may reach a decision after consulting with the panel or the claimant. The director shall provide notice of the decision to the panel, the claimant, and other affected parties. If the request is granted and the claimant fails to provide a more definite statement of the claim within five days after notice of the decision, the panel may make such order as it deems just. This subsection shall not be used as a tactic to delay the proceedings.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 7, 1993.)