

2026 Regular Session

SENATE BILL NO. 500

BY SENATOR CONNICK

MALPRACTICE. Provides relative to the medical review panel. (8/1/26)

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AN ACT

To amend and reenact R.S. 40:1231.8(A)(1), relative to the medical review panel; to provide relative to the Patient's Compensation Fund; to provide for certificates of merit; to provide for certain affidavits; to provide for certain expert testimony; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1231.8(A)(1) is hereby amended and reenacted to read as follows:

§1231.8. Medical review panel; **certificate of merit**

A.(1)(a)(**i**) All malpractice claims against health care providers covered by this Part, other than claims validly agreed for submission to a lawfully binding arbitration procedure, shall **at the claimant's election be filed in a court of competent jurisdiction with a certificate of merit or, prior to initiation of judicial proceedings,** be reviewed by a medical review panel established as hereinafter provided for in this Section.

(ii) If the claimant elects to file a certificate of merit pursuant to this Section, the certificate of merit shall be executed in the form of an affidavit by the claimant, or the attorney for the claimant, or a licensed physician, declaring

1 under oath one of the following:

2 (aa) The affiant has reviewed the facts of the case as an expert, or in
3 consultation with at least one expert, who is qualified pursuant to the Louisiana
4 Code of Civil Procedure and the Louisiana Code of Evidence to give expert
5 testimony regarding the standard of care and negligence pertaining to the
6 subject matter and medical specialty relevant to the particular medical
7 malpractice claim being brought and that, on the basis of such review or
8 consultation, a reasonable, good faith basis for the commencement of such
9 action exists.

10 (bb) A physician licensed and board certified or otherwise qualified by
11 education or experience in the medical subject matter of the claim has reviewed
12 the available medical records pertinent to the alleged medical malpractice and
13 has concluded that the acts or omissions of the defendant did not meet the
14 medical standard of care applicable to the facts of the claim and caused or
15 contributed to the claimant's injuries or death.

16 (iii) If a claimant elects to file a certificate of merit, but is unable to
17 timely obtain the expert consultation required by this Section because to do so
18 would mean that prescription would bar bringing the medical malpractice
19 action, then the claimant may file a certificate of merit within ninety days of all
20 defendants having filed their answer. If within ninety days the claimant has not
21 filed a certificate of merit, the action shall be dismissed.

22 (iv) If a claimant in a medical malpractice action elects to file a
23 certificate of merit, the filing of a single certificate of merit shall be sufficient to
24 meet the requirements of this Section, even if more than one defendant has been
25 named in the medical malpractice petition or is subsequently named.

26 (v) The filing of a request for review by a medical review panel, if elected
27 by the claimant to be filed as provided for in this Section, shall not be reportable
28 by any health care provider, the Louisiana Patient's Compensation Fund, or any other
29 entity to the Louisiana State Board of Medical Examiners, to any licensing authority,

1 committee, or board of any other state, or to any credentialing or similar agency,
 2 committee, or board of any clinic, hospital, health insurer, or managed care
 3 company.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

DIGEST

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Present law (R.S. 40:1231.8(A)) provides that all malpractice claims against health care providers covered by present law, other than claims validly agreed for submission to a lawfully binding arbitration procedure, shall be reviewed by a medical review panel established as hereinafter provided for in present law.

Proposed law provides that all malpractice claims against healthcare providers covered by present law, other than claims validly agreed for submission to a lawfully binding arbitration procedure, shall at the claimant's election be filed in a court of competent jurisdiction with a certificate of merit or, prior to initiation of judicial proceedings, be reviewed by a medical review panel established as hereinafter provided for in proposed law.

Proposed law provides that if the claimant elects to file a certificate of merit pursuant to proposed law, the certificate of merit shall be executed in the form of an affidavit by the claimant, or the attorney for the claimant, or a licensed physician, declaring under oath one of the following:

- (1) The affiant has reviewed the facts of the case as an expert, or in consultation with at least one expert, who is qualified pursuant to present law to give expert testimony regarding the standard of care and negligence pertaining to the subject matter and medical specialty relevant to the particular medical malpractice claim being brought and that, on the basis of such review or consultation, a reasonable, good faith basis for the commencement of such action exists.
- (2) A physician licensed and board certified or otherwise qualified by education or experience in the medical subject matter of the claim has reviewed the available medical records pertinent to the alleged medical malpractice and has concluded that the acts or omissions of the defendant did not meet the medical standard of care applicable to the facts of the claim and caused or contributed to the claimant's injuries or death.

Proposed law provides that if a claimant elects to file a certificate of merit, but is unable to timely obtain the expert consultation required by proposed law because to do so would mean that prescription would bar bringing the medical malpractice action, then the claimant may file a certificate of merit within 90 days of all defendants having filed their answer. Further provides that if within 90 days the claimant has not filed a certificate of merit, the action shall be dismissed.

Proposed law provides that if a claimant in a medical malpractice action elects to file a certificate of merit, the filing of a single certificate of merit shall be sufficient to meet the requirements of proposed law, even if more than one defendant has been named in the medical malpractice petition or is subsequently named.

Present law provides that the filing of a request for review by a medical review panel as

provided for in present law, shall not be reportable by any healthcare provider, the Louisiana Patient's Compensation Fund, or any other entity to the Louisiana State Board of Medical Examiners, to any licensing authority, committee, or board of any other state, or to any credentialing or similar agency, committee, or board of any clinic, hospital, health insurer, or managed care company.

Proposed law retains present law but notes that the filing of a request for review by a medical review panel pursuant to proposed law happens if elected by the claimant to be filed.

Effective August 1, 2026.

(Amends R.S. 40:1231.8(A)(1))