

HOUSE BILL NO. HB0078

Certificate of review.

Sponsored by: Representative(s) Ross and Simpson

A BILL

for

1 AN ACT relating to civil actions; requiring a certificate  
2 of review before filing a civil action against a licensed  
3 or certified professional as specified; providing for  
4 applicability; and providing for an effective date.

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6 *Be It Enacted by the Legislature of the State of Wyoming:*

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8 **Section 1.** W.S. 1-1-130 is created to read:

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10 **1-1-130. Actions against licensed or certified**  
11 **professionals; certificate of review.**

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13 (a) In every action for damages or indemnity based  
14 upon the alleged professional negligence of a licensed or  
15 certified professional, the plaintiff or complainant shall  
16 file with the court a certificate of review for each  
17 licensed or certified professional named as a party, as

1 specified in subsection (d) of this section, within sixty  
2 (60) days after the service of the complaint, counterclaim  
3 or cross claim against the person unless the court  
4 determines that a longer period is necessary for good cause  
5 shown.

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7 (b) A certificate of review shall be filed with the  
8 court with respect to every action described in subsection  
9 (a) of this section against a company or firm that employed  
10 a person specified in subsection (a) of this section at the  
11 time of the alleged negligence, even if the person is not  
12 named as a party in the action.

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14 (c) In the event of failure to file a certificate of  
15 review in accordance with this section and if the licensed  
16 or certified professional defending the claim believes that  
17 an expert is necessary to prove the claim of professional  
18 negligence, the defense may move the court for an order  
19 requiring filing of the certificate. The court shall give  
20 priority to deciding the motion filed under this  
21 subsection, and in no event shall the court allow the case  
22 to be set for trial without a decision on the motion.

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1           (d) A certificate of review shall be executed by the  
2 plaintiff or complainant, or his attorney, if the plaintiff  
3 or complainant is represented by an attorney at the time of  
4 filing the certificate of review, declaring:

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6           (i) That the plaintiff or complainant, or his  
7 attorney, has consulted a person who has expertise in the  
8 area of the alleged negligent conduct; and

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10           (ii) That the professional who has been  
11 consulted under this subsection has reviewed the known  
12 facts, including the records, documents and other materials  
13 which the professional has found to be relevant to the  
14 allegations of negligent conduct and, based on the review  
15 of those facts, has concluded that the filing of the claim,  
16 counterclaim or cross claim has substantial justification,  
17 is not substantially groundless or vexatious and is not  
18 brought in bad faith.

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20           (e) The court, in its own discretion, may require the  
21 identity of the licensed or certified professional who was  
22 consulted pursuant to subsection (d) of this section to be  
23 disclosed to the court and may verify the content of the  
24 certificate of review. Unless the court orders otherwise,

1 the plaintiff or complainant, or his attorney shall not be  
2 required to provide the identity of the consulting  
3 professional to the opposing party or parties in the civil  
4 action.

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6 (f) In an action alleging professional negligence of  
7 a licensed or certified professional, other than a health  
8 care provider, the certificate of review shall state that  
9 the professional consulted can demonstrate by competent  
10 evidence that, as a result of training, education,  
11 knowledge and experience, the consultant is competent to  
12 express an opinion as to the negligent conduct alleged.

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14 (g) In an action alleging professional negligence of  
15 a health care provider, the certificate of review shall  
16 declare that the person consulted is a licensed health care  
17 provider who can demonstrate by competent evidence that, as  
18 a result of training, education, knowledge and experience  
19 in the evaluation, diagnosis and treatment of the disease  
20 or injury which is the subject matter of the action or  
21 proceeding against the health care provider, he is  
22 substantially familiar with applicable standards of care  
23 and practice as they relate to the negligent conduct  
24 alleged.

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2 (h) The failure to file a certificate of review in  
3 accordance with this section, absent a showing of good  
4 cause, shall result in the dismissal of the complaint,  
5 counterclaim or cross claim. Nothing in this section shall  
6 apply to a proceeding in a small claims court.

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8 (j) For purposes of this section, "health care  
9 provider" means a person who, in accordance with law or a  
10 license granted by a state agency, provides health care,  
11 including a physician, dentist, nurse, podiatrist,  
12 pharmacist, chiropractor, optometrist or health care  
13 facility.

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15 **Section 2.** This act shall apply to any action filed  
16 under W.S. 1-1-130 on or after the effective date of this  
17 act.

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19 **Section 3.** This act is effective July 1, 2004.

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(END)