

HOUSE BILL 684

D3

0lr3183

By: **Delegates Crutchfield, Barron, and Dumais**

Introduced and read first time: January 30, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Health Care Malpractice Claims – Expert Witnesses**

3 FOR the purpose of authorizing an expert witness in a certain health care malpractice
4 claim, suit, or action to testify in the form of an opinion or otherwise under certain
5 circumstances; and generally relating to health care malpractice claims.

6 BY repealing and reenacting, with amendments,
7 Article – Courts and Judicial Proceedings
8 Section 3–2A–02
9 Annotated Code of Maryland
10 (2013 Replacement Volume and 2019 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 That the Laws of Maryland read as follows:

13 **Article – Courts and Judicial Proceedings**

14 3–2A–02.

15 (a) (1) All claims, suits, and actions, including cross claims, third–party
16 claims, and actions under Subtitle 9 of this title, by a person against a health care provider
17 for medical injury allegedly suffered by the person in which damages of more than the limit
18 of the concurrent jurisdiction of the District Court are sought are subject to and shall be
19 governed by the provisions of this subtitle.

20 (2) An action or suit of that type may not be brought or pursued in any
21 court of this State except in accordance with this subtitle.

22 (3) Except for the procedures stated in § 3–2A–06(f) of this subtitle, an
23 action within the concurrent jurisdiction of the District Court is not subject to the
24 provisions of this subtitle.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) A claim filed under this subtitle and an initial pleading filed in any subsequent
2 action may not contain a statement of the amount of damages sought other than that they
3 are more than a required jurisdictional amount.

4 (c) (1) In any action for damages filed under this subtitle, the health care
5 provider is not liable for the payment of damages unless it is established that the care given
6 by the health care provider is not in accordance with the standards of practice among
7 members of the same health care profession with similar training and experience situated
8 in the same or similar communities at the time of the alleged act giving rise to the cause of
9 action.

10 (2) (i) This paragraph applies to a claim or action filed on or after
11 January 1, 2005.

12 (ii) 1. In addition to any other qualifications, a health care
13 provider who attests in a certificate of a qualified expert or testifies in relation to a
14 proceeding before a panel or court concerning a defendant's compliance with or departure
15 from standards of care:

16 A. Shall have had clinical experience, provided consultation
17 relating to clinical practice, or taught medicine in the defendant's specialty or a related
18 field of health care, or in the field of health care in which the defendant provided care or
19 treatment to the plaintiff, within 5 years of the date of the alleged act or omission giving
20 rise to the cause of action; and

21 B. Except as provided in subparagraph 2 of this
22 subparagraph, if the defendant is board certified in a specialty, shall be board certified in
23 the same or a related specialty as the defendant.

24 2. Subsubparagraph 1B of this subparagraph does not apply
25 if:

26 A. The defendant was providing care or treatment to the
27 plaintiff unrelated to the area in which the defendant is board certified; or

28 B. The health care provider taught medicine in the
29 defendant's specialty or a related field of health care.

30 **(3) A WITNESS WHO IS QUALIFIED AS AN EXPERT BY KNOWLEDGE,
31 SKILL, EXPERIENCE, TRAINING, OR EDUCATION MAY TESTIFY IN THE FORM OF AN
32 OPINION OR OTHERWISE ONLY IF:**

33 **(I) THE EXPERT'S SCIENTIFIC, TECHNICAL, OR OTHER
34 SPECIALIZED KNOWLEDGE WILL HELP THE TRIER OF FACT UNDERSTAND THE
35 EVIDENCE OR DETERMINE A FACT IN ISSUE;**

1 **(II) THE TESTIMONY IS BASED ON SUFFICIENT FACTS OR DATA;**

2 **(III) THE TESTIMONY IS THE PRODUCT OF RELIABLE**
3 **PRINCIPLES AND METHODS; AND**

4 **(IV) THE EXPERT HAS RELIABLY APPLIED THE PRINCIPLES AND**
5 **METHODS TO THE FACTS OF THE CASE.**

6 (d) Except as otherwise provided, the Maryland Rules shall apply to all practice
7 and procedure issues arising under this subtitle.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2020.