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SENATE BILL 6301

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Kline and Carrell

Read first time 01/17/12. Referred to Committee on Judiciary.

1 AN ACT Relating to awarding of costs, including attorneys' fees, in  
2 actions challenging actions taken by professional peer review bodies;  
3 amending RCW 7.71.030; and adding a new section to chapter 7.71 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 7.71.030 and 1987 c 269 s 3 are each amended to read  
6 as follows:

7 (1) This section shall provide the exclusive remedy for any action  
8 taken by a professional peer review body of health care providers as  
9 defined in RCW 7.70.020, that is found to be based on matters not  
10 related to the competence or professional conduct of a health care  
11 provider.

12 (2) Actions shall be limited to appropriate injunctive relief, and  
13 damages shall be allowed only for lost earnings directly attributable  
14 to the action taken by the professional peer review body, incurred  
15 between the date of such action and the date the action is functionally  
16 reversed by the professional peer review body.

17 (3) Reasonable attorneys' fees and costs (~~(as approved by the~~  
18 ~~court))~~ shall be awarded (~~(to the prevailing party, if any, as~~  
19 ~~determined))~~ if approved by the court under section 2 of this act.

1           (4) The statute of limitations for actions under this section shall  
2 be one year from the date of the action of the professional peer review  
3 body.

4           NEW SECTION.   **Sec. 2.** A new section is added to chapter 7.71 RCW  
5 to read as follows:

6           (1) Except as provided for in subsection (2) of this section, at  
7 the conclusion of an action under RCW 7.71.030 the court shall award to  
8 the substantially prevailing party the costs of the suit attributable  
9 to any claim or defense asserted in the action by the nonprevailing  
10 party, including reasonable attorneys' fees, if the nonprevailing  
11 party's claim, defense, or conduct was frivolous, unreasonable, without  
12 foundation, or in bad faith.

13           (2) At the conclusion of an action under RCW 7.71.030 the court  
14 shall award to the substantially prevailing defendant the cost of the  
15 suit, including reasonable attorneys' fees, if the nonprevailing  
16 plaintiff failed to first exhaust all administrative remedies available  
17 before the professional peer review body.

18           (3) A party shall not be considered to have substantially prevailed  
19 if the opposing party obtains an award for damages or permanent  
20 injunctive relief.

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