

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1409, L.D. 1957, Bill, "An Act to Clarify the Laws Governing Prolitigation Screening Panels"

Amend the bill by inserting after section 1 the following:

'Sec. 2. 24 MRSA §2853, sub-§7, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

7. Extensions of time. All requests for extension of time under this subchapter shall must be made to the panel chairman chair. The chairman chair may extend any time period under this subchapter for good cause, except that the chair may not extend any time period that would result in the hearing being held more than one year from the service of notice of claim upon the clerk unless extraordinary cause is shown.

Further amend the bill by inserting after section 2 the following:

'Sec. 3. 24 MRSA §2859, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

§2859. Statute of limitations

The applicable statute of limitations concerning actions for professional negligence shall ~~be~~ is tolled from the date upon which notice of claim is served or filed in Superior Court until 30 days following the day upon which the claimant receives notice of the findings of the panel ~~pursuant to section 2856 or 175 days after service of the notice of claim pursuant to section 2903, whichever first occurs. After the passage of 175 days, the claimant may bring suit if the panel has not rendered a decision, but after the claimant's filing of a complaint all further proceedings in the case shall be stayed until a decision of the panel is made.~~

Further amend the bill by renumbering the sections to read consecutively.

2 STATEMENT OF FACT

4 This amendment adds 2 sections to the bill.

6 The current medical malpractice prelitigation screening
8 system provides that the statute of limitations is tolled on the
10 filing of a claim, but only for a maximum of 175 days. If
12 prelitigation screening is lengthy, the plaintiff's right to
14 proceed can be unwittingly lost. This amendment extends the
tolling period for the entire period used by the screening
process until 30 days after notice of the panel's decision is
received by the claimant.

16 The Maine Revised Statutes, Title 24, section 2859 is
18 amended to clarify that filing in the Superior Court also tolls
20 the statute of limitations. This gives a plaintiff 2 options for
22 stopping the statute of limitations from running; either serving
the notice of claim pursuant to the prelitigation screening panel
process or filing the complaint in Superior Court. Either is
sufficient to toll the statute of limitations for medical
malpractice claims.

24 This amendment also provides that, although the screening
26 panel chair may extend any time periods provided, the chair may
28 not extend a time period that would cause the hearing before the
30 panel to be held more than one year after the notice of claim is
filed. An exception to this one-year rule is if extraordinary
cause, a standard higher than good cause required for all other
extensions, is shown.

32 The purpose of these 2 additions to the bill is to ensure
34 that medical malpractice cases proceed quickly but fairly through
36 the prelitigation screening process. A resolution at the panel
level may eliminate the need or desire for litigation of the
claim.

Reported by the Committee on Judiciary
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