

WILLIAM DONALD SCHAEFER, Governor

("Current law requires a certificate from a qualified expert but does not specify who may or may not serve as an expert... Testimony indicated that in some cases a party files a certificate as the party's own expert."; Report of the Tort and Insurance Reform Oversight Committee -- 1987 Interim at 21-22 "No statutory provision specifically precludes a defendant health care provider from filing his own certificate as an attesting expert, although the HCAO interprets the statute to preclude such a certification of meritorious defense.").

Further, there is some evidence in the legislative history of the 1986 law that its provisions relating to experts were not intended to impose too great a burden on the parties. At the request of the Administration and Senate President Steinberg, an amendment was dropped from the bill limiting the use of experts in the circuit court. See Amendment to Senate Bill 559 attached to February 14, 1986 Letter to Senate President Steinberg and Senator Miller. 3/ In addition, the 1986 Act expressly permitted parties proceeding pro se to file the certificate without suggesting that a pro se defendant would be put to the added expense of obtaining another qualified expert to attest to the certificate. (See 3-2A-04(b)(3)).

Finally, I should note that while only three other states (California, Illinois, and North Dakota) require an expert certification of a plaintiff, none but Maryland requires it of a defendant. The practical applications of this bill present a real and significant departure from our efforts to reduce medical malpractice costs, and when viewed in conjunction with the disparity of penalties imposed on the plaintiff and defendant and the requirement that the defendant must secure an independent expert or risk the imposition of summary judgment, (a substantial departure from a well reasoned common law rule) I have great difficulties with this bill.

For the above reasons, I have decided to veto House Bill 1285.

Sincerely,  
William Donald Schaefer  
Governor

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Section 3-2A-04(b)(1) and (2) states that:

"Unless the sole issue in the claim is lack of informed consent: