

BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings
Section 3-2A-04(b)
Annotated Code of Maryland
(1984 Replacement Volume and 1988 Supplement)

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

Article - Courts and Judicial Proceedings

3-2A-04.

(b) Unless the sole issue in the claim is lack of informed consent:

(1) A (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A claim filed after July 1, 1986, shall MAY SHALL be dismissed, without prejudice, if the claimant fails to file a certificate of a qualified expert with the Director attesting to departure from standards of care, and that the departure from standards of care is the proximate cause of the alleged injury, within 90 days from the date of the complaint. The claimant shall serve a copy of the certificate on all other parties to the claim or their attorneys of record in accordance with the Maryland Rules.

(II) IN LIEU OF DISMISSING THE CLAIM, THE PANEL CHAIRMAN SHALL GRANT AN EXTENSION OF NO MORE THAN 90 DAYS FOR FILING THE CERTIFICATE REQUIRED BY THIS PARAGRAPH, IF:

1. THE LIMITATIONS PERIOD APPLICABLE TO THE CLAIM HAS EXPIRED; AND

2. THE FAILURE TO FILE THE CERTIFICATE WAS NEITHER WILLFUL NOR THE RESULT OF GROSS NEGLIGENCE.

(2) A claim filed after July 1, 1986, [shall] MAY be adjudicated in favor of the claimant on the issue of liability, ~~ONLY~~ if the defendant disputes liability and ~~WILLFULLY~~ fails to file a certificate of a qualified expert attesting to compliance with standards of care, or that the departure from standards of care is not the proximate cause of the alleged injury, within 120 days from the date the claimant served the certificate of a qualified expert set forth in paragraph (1) of this subsection on the defendant. If the defendant does not dispute liability, a certificate of a qualified expert is not required under this subsection. The defendant shall serve a copy of the certificate on all other parties to the claim or their attorneys of record in accordance with the Maryland Rules.