

HOUSE BILL NO. HB0033

Certificate of review.

Sponsored by: Representative(s) Ross

A BILL

for

1 AN ACT relating to civil actions; requiring a certificate
2 of review before filing a civil action against a licensed
3 or certified professional as specified; and providing for
4 an effective date.

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6 *Be It Enacted by the Legislature of the State of Wyoming:*

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8 **Section 1.** W.S. 1-1-129 is created to read:

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10 **1-1-129. Actions against licensed or certified**
11 **professionals; certificate of review.**

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13 (a) In every action for damages or indemnity based
14 upon the alleged professional negligence of a licensed or
15 certified professional, the plaintiff or complainant shall
16 file with the court a certificate of review for each
17 licensed or certified professional named as a party, as

1 specified in subsection (d) of this section, within sixty
2 (60) days after the service of the complaint, counterclaim
3 or cross claim against the person unless the court
4 determines that a longer period is necessary for good cause
5 shown.

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7 (b) A certificate of review shall be filed with
8 respect to every action described in subsection (a) of this
9 section against a company or firm that employed a person
10 specified in subsection (a) of this section at the time of
11 the alleged negligence, even if the person is not named as
12 a party in the action.

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14 (c) In the event of failure to file a certificate of
15 review in accordance with this section and if the licensed
16 or certified professional defending the claim believes that
17 an expert is necessary to prove the claim of professional
18 negligence, the defense may move the court for an order
19 requiring filing of the certificate. The court shall give
20 priority to deciding the motion filed under this
21 subsection, and in no event shall the court allow the case
22 to be set for trial without a decision on the motion.

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1 (d) A certificate of review shall be executed by the
2 plaintiff or complainant, or his attorney, declaring:

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4 (i) That the plaintiff or complainant, or his
5 attorney, has consulted a person who has expertise in the
6 area of the alleged negligent conduct; and

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8 (ii) That the professional who has been
9 consulted under this subsection has reviewed the known
10 facts, including the records, documents and other materials
11 which the professional has found to be relevant to the
12 allegations of negligent conduct and, based on the review
13 of those facts, has concluded that the filing of the claim,
14 counterclaim or cross claim has substantial justification,
15 is not substantially groundless or vexatious and is not
16 brought in bad faith.

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18 (e) The court, in its own discretion, may require the
19 identity of the licensed or certified professional who was
20 consulted pursuant to subsection (d) of this section to be
21 disclosed to the court and may verify the content of the
22 certificate of review. Unless the court orders otherwise,
23 the plaintiff or complainant, or his attorney shall not be
24 required to provide the identity of the consulting

1 professional to the opposing party or parties in the civil
2 action.

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4 (f) In an action alleging professional negligence of
5 a licensed or certified professional, the certificate of
6 review shall state that person consulted can demonstrate by
7 competent evidence that, as a result of training,
8 education, knowledge and experience, the consultant is
9 competent to express an opinion as to the negligent conduct
10 alleged.

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12 (g) The failure to file a certificate of review in
13 accordance with this section shall result in the dismissal
14 of the complaint, counterclaim or cross claim.

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16 **Section 2.** This act is effective July 1, 2003.

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(END)