HLS 12RS-1191 ORIGINAL

AN ACT

Regular Session, 2012

HOUSE BILL NO. 612

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BY REPRESENTATIVE EDWARDS

MALPRACTICE/MEDICAL: Provides relative to medical review panels

| 2 | To amend and reenact R.S. 40:1299.47(G)(1) and (2), relative to medical review panels; to |
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| 3 | provide for evidence presented to a medical review panel; to provide for the report |
| 4 | of the medical review panel as to a violation of a standard of care; and to provide for |
| 5 | related matters. |
| 6 | Be it enacted by the Legislature of Louisiana: |
| 7 | Section 1. R.S. 40:1299.47(G)(1) and (2) are hereby amended and reenacted to read |
| 8 | as follows: |
| 9 | §1299.47. Medical review panel |
| 10 | * * * |
| 11 | G. The panel shall have the sole duty to express its expert opinion as to |
| 12 | whether or not the evidence supports the conclusion that the defendant or defendants |
| 13 | acted or failed to act within the appropriate standards of care. After reviewing all |
| 14 | evidence and after any examination of the panel by counsel representing either party, |
| 15 | the panel shall, within thirty days, render one or more of the following expert |
| 16 | opinions, which shall be in writing and signed by the panelists, together with written |
| 17 | reasons for their conclusions: |
| 18 | (1) The evidence supports the conclusion that the defendant or defendants |
| 19 | failed to comply with the appropriate standard of care as charged in the complaint. |

1 (2) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Edwards HB No. 612

Abstract: Relative to the written opinion of the medical review panel as to whether or not the defendant failed to meet the appropriate standard of care, deletes the requirement that the failure to meet a standard of care is limited to the standard of care as charged in the complaint.

<u>Present law</u> provides that the medical review panel shall have the sole duty to express its expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care.

<u>Present law</u> provides that after reviewing all evidence, the panel shall, within 30 days, render one or more of the following written expert opinions:

- (1) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.
- (2) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.
- (3) That there is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court.
- (4) When (1) above is answered in the affirmative, that the conduct complained of was or was not a factor of the resultant damages. If such conduct was a factor, whether the plaintiff suffered: (a) any disability and the extent and duration of the disability, and (b) any permanent impairment and the percentage of the impairment.

<u>Proposed law</u> retains <u>present law</u> but deletes the requirement in (1) and (2) above that the failure to meet a standard of care is limited to the standard of care as charged in the complaint.

(Amends R.S. 40:1299.47(G)(1) and (2))