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JULY 1 LAW TO TARGET VIRGINIA'S BAD DOCTORS

A new law, effective July 1, 2005, obligates the Virginia Board of Medicine, the body that licenses doctors, to take action to make some incompetent doctors improve their practices. The law requires the Board to perform a “competency assessment” for every doctor who pays three malpractice claims within a ten-year period. In addition, the law requires the Board to come up with a plan of corrective action that the doctor must follow if he wants to keep his license in Virginia.

“This is one small step in policing doctors, an effort to see that doctors who have repeatedly injured their patients are held accountable and rehabilitated, if possible,” says Benjamin Glass, a Fairfax lawyer with over 21 years experience representing patients in medical malpractice cases. Glass, a long-time member of the Board of Governors of the Virginia Trial Lawyers Association, has written numerous articles about medical malpractice and the reasons for the so-called “crisis” in health care delivery. “Most Virginia doctors provide excellent care to their patients. There are a few who become ‘repeat offenders’. We are hoping that the Board of Medicine is serious about protecting Virginia patients from these bad doctors.”

Although doctors have been required to report malpractice settlements for a number of years, “this is the first time that Virginia has made it mandatory for the Board to require that repeat offenders submit to some corrective action,” says Glass. The law covers all health care providers in Virginia, not just doctors, and also requires the Board to report the number of assessments it performs annually to the General Assembly.

Mr. Glass has been an outspoken critic of the myth that trial lawyers are responsible for the health care “crisis”. To schedule an interview or to get a copy of *Why Most Malpractice Victims Never Recover a Dime*, call 703-591-9829. A Q&A sheet on this new law is available.

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Questions and Answers about Changes to Virginia's Medical Malpractice Laws

By: Virginia Medical Malpractice Attorney Ben Glass

What is the name of the new law?

“Competency assessments of certain practitioners”

When does the new law take effect?

July 1, 2005.

Does it affect old settlements or only settlements made after July 1?

This is unclear. The law seems to say that all settlements within any 10 year period must be used to count. If the law meant otherwise, it would have no current value to Virginia patients at all.

What will the patients get out of this?

For a current patient, probably nothing. The law does not impose any fines or awards. It does require the doctor to pay the costs of the practice assessment. Future patients will certainly be helped to the extent that “repeat offenders” are either banned from practicing, or more likely, are helped in improving their skills.

How will the assessments take place?

Currently the law states: “assessment shall be accomplished in 12 months or less by a program acceptable to the Board.”

Were there any other law changes affecting medical malpractice cases?

Yes, three significant changes.

- (1) A patient who files a malpractice case must now have a signed certification from an expert witness in his file before he serves the lawsuit on the doctor. A lawyer can be made to pay defense costs if he does not have a certificate of merit from an expert before having the case filed.
- (2) If a doctor makes an “expression of sympathy” after an adverse event, that is not admissible in any malpractice action.
- (3) There will now be better and more accurate reporting of claims paid, and the cost of defending malpractice claims, made to the Insurance Commissioner.

Where Can I read the new amendments?

The statute can be viewed at <http://leg1.state.va.us/cgi-bin/legp504.exe?051+ful+CHAP0692>