

Regular Session, 2008

HOUSE BILL NO. 70

BY REPRESENTATIVE CROMER

MALPRACTICE/MEDICAL: Revises definitions under the private Medical Malpractice Act

1 AN ACT

2 To amend and reenact R.S. 40:1299.41(A)(8) and (9) and to enact R.S. 40:1299.41(A)(22),
3 relative to medical malpractice; to revise the definitions of "malpractice" and "health
4 care"; to add the definition of "patient-related service"; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:1299.41(A)(8) and (9) are hereby amended and reenacted and
8 R.S. 40:1299.41(A)(22) is hereby enacted to read as follows:

9 §1299.41. Definitions and general applications

10 A. As used in this Part:

11 * * *

12 (8) "Malpractice" means any unintentional tort or any breach of contract
13 based on health care or professional services rendered, or which should have been
14 rendered, by a health care provider, to a patient, including failure to render services
15 timely and the handling of a patient, including transporting, monitoring, loading, and
16 unloading of a patient, and also includes all legal responsibility of a health care
17 provider arising from acts or omissions during the procurement of blood or blood
18 components, in the training or supervision of health care providers, ~~or from acts or~~
19 omissions in the credentialing or re-credentialing of a health care provider, or from
20 defects in blood, tissue, transplants, drugs, and medicines, or from defects in or
21 failures of prosthetic devices implanted in or used on or in the person of a patient.

1 (9) "Health care" means any ~~act or treatment~~ act, treatment, or other patient-
2 related service or professional service performed or furnished, or which should have
3 been performed or furnished, by any health care provider for, to, or on behalf of a
4 patient during the patient's medical care, treatment, ~~or~~ confinement, or during or
5 relating to or in connection with the procurement of human blood or blood
6 components.

* * *

8 (22) "Patient-related service" means any act or service rendered, or which
9 should have been rendered, to a patient as a result of a diagnosis, order, or health
10 care provider's assessment relating to supervision, assistance with activities of daily
11 living, personal hygiene, or risk of falling, unless generally available for coverage
12 under commercial general liability insurance policies.

* * *

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)]

Cromer

HB No. 70

Abstract: Provides for definitions under the private Medical Malpractice Act.

Present law defines "malpractice" under the Medical Malpractice Act as any unintentional tort or any breach of contract based on health care or professional services rendered, or which should have been rendered, by a health care provider, to a patient, including failure to render services timely and the handling of a patient, including loading and unloading of a patient, and also includes all legal responsibility of a health care provider arising from acts or omissions during the procurement of blood or blood components, in the training or supervision of health care providers, or from defects in blood, tissue, transplants, drugs, and medicines, or from defects in or failures of prosthetic devices implanted in or used on or in the person of a patient.

Proposed law retains present law definition of "malpractice" but includes transporting and monitoring to the list of activities included under the definition of "malpractice".

Proposed law also adds to the definition of "malpractice" all legal responsibility of a health care provider arising from acts or omissions in the credentialing or re-credentialing of a health care provider.

Present law defines "health care" as any act or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement, or during or relating to or in connection with the procurement of human blood or blood components.

Proposed law retains present law definition of "health care" but includes other patient-related services or professional services performed or furnished by a health care provider.

Proposed law defines "patient-related service" as any act or service rendered or which should have been rendered to a patient relating to supervision, assistance with daily living and hygiene, or risk of falling, unless generally available for coverage under commercial general liability insurance policies.

(Amends R.S. 40:1299.41(A)(8) and (9); Adds R.S. 40:1299.41(A)(22))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Adds an exception to the definition of "patient-related service" for acts or services which are available for coverage under insurance policies.