

2017 Regular Session

HOUSE BILL NO. 137

BY REPRESENTATIVE JENKINS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MALPRACTICE/MEDICAL: Provides relative to the filing of requests for medical review panels

1 AN ACT

2 To amend and reenact R.S. 40:1231.8(A)(2)(b) and 1237.2(A)(2)(b), relative to medical
3 malpractice claims; to provide for the date of filing of a request for a medical review
4 panel; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 40:1231.8(A)(2)(b) and 1237.2(A)(2)(b) are hereby amended and
7 reenacted to read as follows:

8 §1231.8. Medical review panel

9 A.

10 * * *

11 (2)

12 * * *

13 (b)(i) The request for review of a malpractice claim under this Section shall
14 be deemed filed on the date ~~of receipt of the request stamped and certified by the~~
15 ~~division of administration or on the date of mailing of the request if mailed to the~~
16 ~~division of administration by certified or registered mail~~ the request is:

17 (aa) Sent, if the request is electronically sent, as provided by R.S. 9:2615(A),
18 to the division of administration.

19 (bb) Mailed, if the request is delivered by certified or registered mail to the
20 division of administration.

1 (cc) Received, if the request is delivered to the division of administration by
2 any means other than as provided by Subitem (aa) or (bb) of this Item.

3 (ii) Upon receipt, the request shall be stamped with the filing date and
4 certified by the division of administration. Filing of the request shall be complete
5 only upon timely compliance with the provisions of Subparagraph (1)(c) or (d) of
6 this Subsection. Upon receipt of any request, the division of administration shall
7 forward a copy of the request to the board within five days of receipt.

8 * * *

9 §1237.2. State medical review panel

10 A.

11 * * *

12 (2)

13 * * *

14 (b)(i) The request for review of the claim under this Section shall be deemed
15 filed on the date ~~of receipt of the complaint stamped and certified by the~~
16 ~~commissioner, or on the date of mailing of the complaint if mailed to the~~
17 ~~commissioner by certified or registered mail~~ the request is:

18 (aa) Sent, if the request is electronically sent, as provided by R.S. 9:2615(A),
19 to the division of administration.

20 (bb) Mailed, if the request is delivered by certified or registered mail to the
21 division of administration.

22 (cc) Received, if the request is delivered to the division of administration by
23 any means other than as provided by Subitem (aa) or (bb) of this Item.

24 (ii) Upon receipt, the request shall be stamped with the filing date and
25 certified by the division of administration. Filing of the request shall be complete
26 only upon timely compliance with the provisions of Subparagraph (1)(c) or (d) of
27 this Subsection.

28 * * *

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)]

HB 137 Reengrossed

2017 Regular Session

Jenkins

Abstract: Provides that a request for a medical review panel shall be deemed filed on the date sent, if the request is electronically sent, the date mailed, if the request is delivered by certified or registered mail, or the date received, if the request is delivered by any other means.

Present law provides the procedures for the filing of a request for review of a medical malpractice claim with the division of administration.

Present law provides that the filing of the request for a review of a claim shall suspend the time within which suit must be instituted and shall suspend the running of prescription against all joint and solidary obligors, and all joint tortfeasors, including but not limited to health care providers, both qualified and not qualified, to the same extent that prescription is suspended against the party or parties that are the subject of the request for review.

Present law provides that the request for review of a malpractice claim shall be deemed filed on the date of receipt of the request stamped and certified by the division of administration or on the date of mailing of the request if mailed to the division of administration by certified or registered mail only upon timely compliance with present law, and that upon receipt of any request, the division of administration shall forward a copy of the request to the board within five days of receipt.

Proposed law retains present law and specifies that the request for a medical review panel shall be deemed filed on the date:

- (1) Sent, if the request is electronically sent.
- (2) Mailed, if the request is delivered by certified or registered mail.
- (3) Received, if the request is delivered by any other means.

The provisions of proposed law address the ambiguity of electronically filed requests identified by the La. Supreme Court in the case of *In re Tillman*, 187 So.3d 445 (La. 2016).

(Amends R.S. 40:1231.8(A)(2)(b) and 1237.2(A)(2)(b))

Summary of Amendments Adopted by House

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

1. Delete provisions addressing only requests for review of a malpractice claim which are filed electronically.
2. Add provisions specifying the filing date for requests for review of a malpractice claim which are filed electronically, filed by certified or registered mail, or filed by any other method.