WEST VIRGINIA CODE: §55-7B-6b

§55-7B-6b. Expedited resolution of cases against health care providers; time frames.

(a) In each professional liability action filed against a health care provider, the court shall convene a mandatory status conference within sixty days after the appearance of the defendant. It shall be the duty of the defendant to schedule the conference with the court upon proper notice to the plaintiff.

(b) During the status conference the parties shall inform the court as to the status of the action, the identification of contested facts and issues, the progress of discovery and the time necessary to complete discovery. The plaintiff shall advise the court whether the plaintiff intends to proceed without an expert, whether the expert who signed the screening certificate of merit will testify upon trial or whether additional experts will be offered by plaintiff. The court shall determine whether the plaintiff may proceed without an expert or otherwise establish dates for the disclosure of expert witnesses by both the plaintiff and all defendants. The court shall also order the parties to participate in mandatory mediation. The mediation shall be conducted pursuant to the provisions of trial court rule 25.

(c) Absent an order expressly setting forth reasons why the interests of justice would otherwise be served, the court shall enter a scheduling order which sets a trial date within twenty-four months from the date the defendant made an appearance, or if there is more than one defendant, twenty-four months from the date the last defendant makes an appearance in the proceeding. The trial date shall be adhered to unless, for good cause shown, the court enters an order continuing the trial date.

(d) The court may order a summary jury trial of the case if all parties represent a case is ready for trial and jointly move the court for a summary jury trial, as provided in section six-c of this article.

(e) Counsel and parties are subject to sanctions for failures and lack of preparation specified in rule 16(f) of the rules of civil procedure respecting pretrial conferences or orders and are subject to the payment of reasonable expenses, including attorneys fees, for failure to participate in good faith in the development and submission of a proposed discovery plan as required by the rules of civil procedure.

(f) In the event that the court determines prior to trial that either party is presenting or relying upon a frivolous or dilatory claim or defense, for which there is no reasonable basis in fact or at law, the court may direct in any final judgment the payment to the prevailing party of reasonable litigation expenses, including deposition and subpoena expenses, travel expenses incurred by the party, and such other expenses necessary to the maintenance of the action, excluding attorney's fees and expenses.

WV Legislature