

## §2852. Formation and procedure

**1. Creation of panel lists.** The Chief Justice of the Superior Court shall recommend to each clerk of the Superior Court the names of retired or active retired justices and judges, persons with judicial experience and other qualified persons to serve on screening panels under this subchapter. The clerk shall place these names on a list from which the Chief Justice of the Superior Court will choose a panel chair under subsection 2.

Each clerk of the Superior Court shall maintain lists of health care practitioners, health care providers and attorneys recommended by the professions involved to serve on screening panels under this subchapter.

[PL 2009, c. 136, §3 (AMD).]

**2. Selection of panel members; compensation.** Screening panel members shall be selected as follows.

A. Upon receipt of a notice of claim under section 2853, the clerk of the Superior Court who receives the notice shall notify the Chief Justice of the Superior Court. The Chief Justice shall choose a retired or active retired justice or judge, a person with judicial experience or other qualified person from the list maintained by the clerk to serve as chair of the panel to screen the claim. If at any time a chair chosen under this paragraph is unable or unwilling to serve, the Chief Justice shall appoint a replacement following the procedure in this paragraph for the initial appointment of a chair. Persons other than retired or active retired justices and judges or those with judicial experience may be appointed as chair based on appropriate trial experience. In the event that the Chief Justice seeks to appoint as chair a person who is not a retired or active retired justice or judge or does not have judicial experience, each side is entitled to exercise one challenge to the appointment of a chair by the Chief Justice. [PL 2009, c. 136, §4 (AMD).]

B. Upon notification of the Chief Justice's choice of chair, the clerk who received the notice of claim under section 2853 shall notify that person and provide that person with the clerk's lists of health care practitioners, health care providers and attorneys created under subsection 1. The chair shall choose from those lists 2 or 3 additional panel members as follows:

- (1) The chair shall choose one attorney;
- (2) The chair shall choose one health care practitioner. If possible, the chair shall choose a practitioner who practices in the specialty or profession of the person accused of professional negligence;
- (3) Where the claim involves more than one person accused of professional negligence the chair may choose a 4th panel member who is a health care practitioner or health care provider. If possible, the chair shall choose a practitioner or provider in the specialty or profession of a person accused; and
- (4) When agreed upon by all the parties, the list of available panel members may be enlarged in order to select a panel member who is agreed to by the parties but who is not on the clerk's list.

The Chief Justice of the Superior Court shall establish the compensation of the panel chair. Other panel members shall serve without compensation or payment of expenses.

The clerk of the Superior Court in the judicial region in which the notice of claim is filed under section 2853 shall, with the consent of the Chief Justice of the Superior Court, provide clerical and other assistance to the panel chair. [PL 1989, c. 361, §§1, 10 (AMD).]

[PL 2009, c. 136, §4 (AMD).]

**3. Challenges; replacements.** If any panel member other than the chair is unable or unwilling to serve in any matter or is challenged for cause by any person who is a party to a proceeding before a

panel, the party challenging the member shall request a replacement from the lists maintained by the clerk under subsection 1, chosen by the chair who shall so notify the parties. Only challenges for cause are allowed. The chair shall inquire as to any bias on the part of a panel member or as requested by any party.

If the chair is challenged for cause by any person who is a party to the proceeding before a panel, the party challenging shall notify the Chief Justice of the Superior Court. If the Chief Justice finds cause for the challenge, the Chief Justice shall replace the chair as under subsection 2, paragraph A. [RR 2019, c. 2, Pt. B, §82 (COR).]

**4. Experts; costs.**

[PL 1989, c. 361, §2 (RP).]

**5. Subpoena power.** The panel, through the chair, has the same subpoena power as exists for a Superior Court Judge. The chair has sole authority, without requiring the agreement of other panel members, to issue subpoenas.

[RR 2019, c. 2, Pt. B, §83 (COR).]

**6. Discovery.** The chair, upon application of a party, may permit reasonable discovery. The chair may rule on requests regarding discovery, or may allow the parties to seek a ruling in the Superior Court under the provisions of section 2853, subsection 5.

[PL 1989, c. 361, §§3, 10 (AMD).]

SECTION HISTORY

PL 1985, c. 804, §§12,22 (NEW). PL 1989, c. 361, §§1,3,10 (AMD). PL 1991, c. 130, §§1,2 (AMD). PL 2009, c. 136, §§3, 4 (AMD). RR 2019, c. 2, Pt. B, §§82, 83 (COR).

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