

1 **Joint Resolution Amending Court Rules Regarding Medical Malpractice**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor:

2 **LONG TITLE**

3 **General Description:**

4 This resolution amends court rules to address medical malpractice actions.

5 **Highlighted Provisions:**

6 This resolution:

7 ▶ amends Rule 42 of the Utah Rules of Civil Procedure to address separate trials in a
8 medical malpractice action; and

9 ▶ makes technical and conforming changes.

10 **Money Appropriated in this Bill:**

11 None

12 **Other Special Clauses:**

13 This resolution provides a special effective date.

14 **Utah Rules of Civil Procedure Affected:**

15 AMENDS:

16 **Rule 42**, Utah Rules of Civil Procedure

17 *Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each*
18 *of the two houses voting in favor thereof:*

19 As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of
20 procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all
21 members of both houses of the Legislature:

22 Section 1. **Rule 42**, Utah Rules of Civil Procedure is amended to read:

23 **Rule 42 . Consolidation; separate trials; venue transfer.**

24 (a) **Consolidation.** When actions involving a common question of law or fact or arising
25 from the same transaction or occurrence are pending before the court in one or more judicial
26 districts, the court may, on motion of any party or on the court's own initiative: order that the
27 actions are consolidated in whole or in part for any purpose, including for discovery, other
28 pretrial matters, or a joint hearing or trial; stay any or all of the proceedings in any action
29 30

31 subject to the order; transfer any or all further proceedings in the actions to a location in which
32 any of the actions is pending after consulting with the presiding judge of the transferee court;
33 and make other such orders concerning proceedings therein as may tend to avoid unnecessary
34 costs or delay.

35 (1) In determining whether to order consolidation and the appropriate location for the
36 consolidated proceedings, the court may consider, among other factors: the complexity of the
37 actions; the importance of any common question of fact or law to the determination of the
38 actions; the risk of duplicative or inconsistent rulings, orders, or judgments; the relative
39 procedural postures of the actions; the risk that consolidation may unreasonably delay the
40 progress, increase the expense, or complicate the processing of any action; prejudice to any
41 party that far outweighs the overall benefits of consolidation; the convenience of the parties,
42 witnesses, and counsel; and the efficient utilization of judicial resources and the facilities and
43 personnel of the court.

44 (2) A motion to consolidate may be filed or opposed by any party. The motion must be
45 filed in and heard by the judge assigned to the first action filed and must be served on all
46 parties in each action pursuant to Rule 5. A notice of the motion must be filed in each action.
47 The movant must, and any party may, file in each action notice of the order denying or
48 granting the motion.

49 (3) If the court orders consolidation, a new case number will be used for all subsequent
50 filings in the consolidated case. The court may direct that specified parties pay the expenses, if
51 any, of consolidation. The presiding judge of the transferee court may assign the consolidated
52 case to another judge for good cause.

53 **(b) Separate trials.**

54 ____ (1) [The] Except as provided in paragraph (b)(2), the court in furtherance of convenience
55 or to avoid prejudice may order a separate trial of any claim, cross claim, counterclaim, or
56 third party claim, or of any separate issue or of any number of claims, cross claims,
57 counterclaims, third party claims, or issues.

58 ____ (2) For a malpractice action against a health care provider, and upon a motion by a party,
59 the court shall order:

60 ____ (A) a separate trial to be held to determine the liability of the defendant; and

61 ____ (B) a separate trial to be held to determine the amount of damages owed by the
62 defendant after liability of the defendant is established.

63 **(c) Venue Transfer.**

64 (1) On timely motion of any party, where transfer to a proper venue is available, the

65 court must transfer any action filed in an improper venue.

66 (2) The court must give substantial deference to a plaintiff's choice of a proper venue.

67 On timely motion of any party, a court may: transfer venue of any action, in whole or in part,
68 to any other venue for any purpose, including for discovery, other pretrial matters, or a joint
69 hearing or trial; stay any or all of the proceedings in the action; and make other such orders
70 concerning proceedings therein to pursue the interests of justice and avoid unnecessary costs
71 or delay. In determining whether to transfer venue and the appropriate venue for the
72 transferred proceedings, the court may consider, among other factors, whether transfer will:
73 increase the likelihood of a fair and impartial determination in the action; minimize expense or
74 inconvenience to parties, witnesses, or the court; decrease delay; avoid hardship or injustice
75 otherwise caused by venue requirements; and advance the interests of justice.

76 (3) The court may direct that specified parties pay the expenses, if any, of transfer.

77 Section 2. **Effective Date.**

78 As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect
79 upon a two-thirds vote of all members elected to each house.