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H.26

Introduced by Representative Till of Jericho

Referred to Committee on

Date:

Subject: Court procedure; medical malpractice; physician expert witnesses

Statement of purpose of bill as introduced: This bill proposes to set standards for the qualification of physician expert witnesses in medical malpractice actions.

An act relating to physician expert witnesses in medical malpractice actions

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 12 V.S.A. § 1643a is added to read:

§ 1643a. PHYSICIAN EXPERT WITNESS

(a) No person shall be permitted to serve as a physician expert witness in a medical malpractice action under section 1908 or 1909 of this title unless the person:

(1) has a current, valid, and unrestricted license to practice medicine in the state in which he or she practices; and

(2)(A) is board certified in the same area of specialty as the defendant; or

1 (B) clinically practices as a specialist in the area of medical practice
2 involved in the case.

3 (b) The physician expert witness shall be:

4 (1) qualified by experience or demonstrated competence in the area of
5 medical practice involved in the case;

6 (2) familiar with the standard of care provided at the time of the alleged
7 occurrence; and

8 (3) actively involved in the area of medical practice involved in the case.

9 (c) The physician expert witness shall state the basis of his or her testimony
10 or opinion, and whether it is based on personal experience, specific clinical
11 references, evidence-based guidelines, or a generally accepted opinion in the
12 specialty field.

13 (d)(1) A retired physician may serve as a physician expert witness if within
14 the previous three years:

15 (A) the retired physician held an unrestricted license to practice
16 medicine; and

17 (B)(i) was board certified in the same area of specialty as the
18 defendant; or

19 (ii) clinically practiced as a specialist in the area of medical
20 practice involved in the case.

1 (2) A retired physician shall not serve as a physician expert witness
2 unless he or she is employed or contracted by an academic institution to teach
3 medicine or conduct medical research in the defendant's field or a similar field
4 that addresses a relevant issue in the case.

5 Sec. 2. EFFECTIVE DATE

6 This act shall take effect on July 1, 2017.