

1 H.5

2 Introduced by Representative Till of Jericho

3 Referred to Committee on

4 Date:

5 Subject: Court procedure; medical malpractice; physician expert witnesses

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

9 An act relating to physician expert witnesses in medical malpractice actions

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

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

12 § 1643a. PHYSICIAN EXPERT WITNESS

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

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

18 (2)(A) is board certified in the same area of specialty as the
19 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, 2019.