9-1429-06

A bill to be entitled 2 An act relating to expert witness certificates; 3 creating s. 458.3175, F.S.; requiring the Board 4 of Medicine to issue an expert witness 5 certificate to any out-of-state allopathic 6 physician who meets certain requirements; 7 authorizing a licensee to use an expert witness certificate only under certain circumstances; 8 9 requiring that applications for an expert 10 witness certificate be approved or denied within a certain time; requiring all licensure 11 12 fees to be waived for a person obtaining an 13 expert witness certificate but not otherwise allowed to practice medicine in the state; 14 providing for the adoption of rules; providing 15 an expiration date for an expert witness 16 17 certificate; amending s. 458.331, F.S.; providing that a physician who gives 18 misleading, deceptive, or fraudulent expert 19 witness testimony may be disciplined; creating 20 21 s. 459.0094, F.S.; requiring the Board of 22 Osteopathic Medicine to issue an expert witness 23 certificate to any out-of-state osteopathic physician who meets certain requirements; 2.4 authorizing a licensee to use an expert witness 25 certificate only under certain circumstances; 26 27 requiring that applications for an expert 2.8 witness certificate be approved or denied 29 within a certain time; requiring all licensure 30 fees to be waived for a person obtaining an expert witness certificate but not otherwise 31

1 allowed to practice medicine in the state; 2 providing for the adoption of rules; providing an expiration date for an expert witness 3 4 certificate; amending s. 459.015, F.S.; 5 providing that a physician who gives 6 misleading, deceptive, or fraudulent expert 7 witness testimony may be disciplined; amending 8 s. 766.102, F.S.; requiring an expert who gives 9 testimony in certain actions against a 10 physician to be licensed in this state or hold an expert witness certificate; providing an 11 12 effective date. 13 Be It Enacted by the Legislature of the State of Florida: 14 15 Section 1. Section 458.3175, Florida Statutes, is 16 17 created to read: 18 458.3175 Expert witness certificate.--(1) Any physician who is licensed to practice 19 20 allopathic medicine in any other state or Canada, whose 21 license is currently active and valid, who completes a 22 registration form prescribed by the board, who pays the 23 application fee, and who has not had a previous expert witness certificate revoked by the board, shall be issued a 2.4 certificate to provide expert testimony. 2.5 (2) A recipient of an expert witness certificate may 26 27 use the license only to give a verified written medical expert 2.8 opinion as provided in s. 766.203 and to provide expert testimony concerning the prevailing professional standard of 29 care in connection with any medical negligence litigation 30 pending in this state against a physician licensed under

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issuance.

certificate alone does not entitle the recipient to engage in 2 the practice of medicine as defined in s. 458.305. 3 4 (3) Each application for an expert witness certificate shall be approved or denied within 5 business days after 5 6 receipt of a completed application. Any application for a 7 certificate which is not approved or denied within the 8 required time is considered approved. Any applicant for an expert witness certificate seeking to claim licensure by 9 10 default shall notify the board, in writing, of the intent to rely on the default license provision of this subsection. 11 12 (4) All licensure fees other than the initial 13 application fee, including neurological injury compensation assessments, shall be waived for those persons obtaining an 14 expert witness certificate but not otherwise allowed to 15 16 practice medicine in this state. 17 (5) The board shall adopt rules to administer this 18 section, including rules setting the amount of the application fee for an expert witness certificate. The application fee for 19 the expert witness certificate may not exceed \$50. An expert 2.0 21 witness certificate shall expire 2 years after the date of

chapter 458 or chapter 459. The receipt of an expert witness

23 Section 2. Paragraph (oo) is added to subsection (1) 24 of section 458.331, Florida Statutes, to read:

 $$458.331\$ Grounds for disciplinary action; action by the board and department.--

27 (1) The following acts constitute grounds for denial 28 of a license or disciplinary action, as specified in s. 29 456.072(2):

(oo) Providing misleading, deceptive, or fraudulent
expert witness testimony related to the practice of medicine.

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Section 3. Section 459.0094, Florida Statutes, is 2 created to read: 459.0094 Expert witness certificate. --3 4 (1) Any physician who is licensed to practice osteopathic medicine in any other state or Canada, whose 5 6 license is currently active and valid, who completes a 7 registration form prescribed by the board, who pays the 8 application fee, and who has not had a previous expert witness certificate revoked by the board, shall be issued a 9 10 certificate to provide expert testimony. (2) A recipient of an expert witness certificate may 11 12 use the license only to give a verified written medical expert opinion as provided in s. 766.203 and to provide expert 13 testimony concerning the prevailing professional standard of 14 care in connection with any medical negligence litigation 15 pending in this state against a physician licensed under 16 chapter 458 or chapter 459. The receipt of an expert witness 18 certificate alone does not entitle the recipient to engage in the practice of medicine as defined in s. 458.305. 19 2.0 (3) Each application for an expert witness certificate 21 shall be approved or denied within 5 business days after 2.2 receipt of a completed application. Any application for a 23 certificate which is not approved or denied within the required time is considered approved. Any applicant for an 2.4 expert witness certificate seeking to claim licensure by 2.5 default shall notify the board, in writing, of the intent to 26 2.7 rely on the default license provision of this subsection. 2.8 (4) All licensure fees other than the initial application fee, including neurological injury compensation 29 30 assessments, shall be waived for those persons obtaining an

1	expert witness certificate but not otherwise allowed to
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2	practice medicine in this state.
3	(5) The board shall adopt rules to administer this
4	section, including rules setting the amount of the application
5	fee for an expert witness certificate. The application fee for
6	the expert witness certificate may not exceed \$50. An expert
7	witness certificate shall expire 2 years after the date of
8	issuance.
9	Section 4. Paragraph (qq) is added to subsection (1)
10	of section 459.015, Florida Statutes, to read:
11	459.015 Grounds for disciplinary action; action by the
12	board and department
13	(1) The following acts constitute grounds for denial
14	of a license or disciplinary action, as specified in s.
15	456.072(2):
16	(qq) Providing misleading, deceptive, or fraudulent
17	expert witness testimony related to the practice of medicine.
18	Section 5. Present subsection (12) of section 766.102,
19	Florida Statutes, is redesignated as subsection (13), and a
20	new subsection (12) is added to that section, to read:
21	766.102 Medical negligence; standards of recovery;
22	expert witness
23	(12) In any action for damages involving a claim of
24	negligence against a physician licensed under chapter 458 or
25	chapter 459, an expert witness who offers testimony concerning
26	the prevailing professional standard of care must be licensed
27	in this state under chapter 458 or chapter 459 or hold an
28	expert witness certificate as provided in s. 458.3175 or s.
29	459.0094.
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 $(13)\frac{(12)}{(12)}$ This section does not limit the power of the 2 trial court to disqualify or qualify an expert witness on 3 grounds other than the qualifications in this section. 4 Section 6. This act shall take effect July 1, 2006. 5 ********** 6 7 SENATE SUMMARY 8 Requires the Board of Medicine to issue an expert witness certificate to any out-of-state allopathic physician who 9 meets certain requirements. Authorizes a licensee to use an expert witness certificate under only certain 10 circumstances. Requires that applications for an expert witness certificate be approved or denied within a certain time. Requires all licensure fees to be waived 11 for a person obtaining an expert witness certificate but 12 not otherwise allowed to practice medicine in the state. Provides for the adoption of rules. Provides an 13 expiration date for an expert witness certificate. Provides that a physician and a person practicing 14 osteopathic medicine may be disciplined for providing misleading, deceptive, or fraudulent expert witness 15 testimony. Requires the Board of Osteopathic Medicine to issue an expert witness certificate to any out-of-state 16 osteopathic physician who meets certain requirements. Authorizes a licensee to use an expert witness 17 certificate only under certain circumstances. Requires that applications for an expert witness certificate be 18 approved or denied within a certain time. Requires all licensure fees to be waived for a person obtaining an 19 expert witness certificate but not otherwise allowed to practice medicine in the state. Provides for the adoption of rules. Provides an expiration date for an expert 2.0 witness certificate. Requires an expert who gives 21 testimony in certain actions against a physician to be licensed in this state or hold an expert witness 22 certificate. 23 2.4 25 26 27 28 29 30