

1 A bill to be entitled
 2 An act relating to presuit notice before filing actions
 3 for medical negligence; amending s. 766.106, F.S.;
 4 requiring claimants to provide defendants signed medical
 5 release forms granting access to certain medical records;
 6 requiring such releases to permit interviews of claimant's
 7 health care providers; providing limitations; providing an
 8 effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Paragraph (a) of subsection (2) of section
 13 766.106, Florida Statutes, is amended to read:

14 766.106 Notice before filing action for medical
 15 negligence; presuit screening period; offers for admission of
 16 liability and for arbitration; informal discovery; review.--

17 (2) PRESUIT NOTICE.--

18 (a) After completion of presuit investigation pursuant to
 19 s. 766.203(2) and prior to filing a complaint for medical
 20 negligence, a claimant shall notify each prospective defendant
 21 by certified mail, return receipt requested, of intent to
 22 initiate litigation for medical negligence. Notice to each
 23 prospective defendant must include, if available, a list of all
 24 known health care providers seen by the claimant for the
 25 injuries complained of subsequent to the alleged act of
 26 negligence, all known health care providers during the 2-year
 27 period prior to the alleged act of negligence who treated or
 28 evaluated the claimant, and copies of all of the medical records

29 relied upon by the expert in signing the affidavit. The claimant
30 shall also provide to the defendant a signed medical release
31 form granting each prospective defendant or legal representative
32 access to the claimant's medical records from each of the
33 physicians listed in the notification. Notwithstanding any other
34 provision of law, such release form shall also permit each
35 prospective defendant or legal representative to interview, ex
36 parte, any health care provider listed by the claimant pursuant
37 to this paragraph. Such an interview must be limited to issues
38 of causation, the claimant's current physical condition, and the
39 mental impressions of the care and treatment rendered by the
40 defendant health care provider or any other health care provider
41 alleged to be responsible for the patient's injury or death.
42 Such an interview with a claimant's treating physician may occur
43 only after the claimant has given notice of intent to initiate a
44 claim for medical malpractice and before the dismissal,
45 settlement, or other final resolution of the claim. The
46 requirement of providing the list of known health care providers
47 may not serve as grounds for imposing sanctions for failure to
48 provide presuit discovery.

49 Section 2. This act shall take effect July 1, 2005.