

1 A bill to be entitled
 2 An act relating to expert witnesses; creating ss. 458.3175
 3 and 459.0066, F.S.; requiring the Board of Medicine and
 4 the Board of Osteopathic Medicine, respectively, to issue
 5 expert witness certificates to certain licensed physicians
 6 under certain circumstances; providing requirements for
 7 certification; providing a limitation; requiring the
 8 boards to implement rules and set fees; amending ss.
 9 458.331 and 459.015, F.S.; providing that certain
 10 fraudulent, deceptive, or misleading expert witness
 11 testimony is grounds for disciplinary action; providing
 12 penalties; amending s. 766.102, F.S.; providing that
 13 certain medical expert testimony is not admissible unless
 14 the expert witness meets certain requirements; providing
 15 an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 458.3175, Florida Statutes, is created
 20 to read:

21 458.3175 Expert witness certificate.--

22 (1) Any physician who is licensed to practice allopathic
 23 medicine in any other state or in Canada, whose license is
 24 currently active and valid, who completes a registration form
 25 prescribed by the board, who pays the application fee, and who
 26 has not had a previous expert witness certificate revoked by the
 27 board shall be issued a certificate to provide expert testimony.

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28 (2) A physician possessing an expert witness certificate
29 may use the certificate solely to give a verified written medical
30 expert opinion as provided in s. 766.203 and to provide expert
31 testimony concerning the prevailing professional standard of care
32 in connection with any medical negligence litigation pending in
33 this state against a physician licensed under this chapter or
34 chapter 459. The possession of an expert witness certificate
35 alone does not entitle the physician to engage in the practice of
36 medicine as defined in s. 458.305(3).

37 (3) Every application for an expert witness certificate
38 shall be approved or denied within 5 business days after receipt
39 of a completed application. Any application for a certificate
40 that is not approved or denied within the required time period is
41 considered approved. Any applicant for an expert witness
42 certificate seeking to claim certification by default shall
43 notify the board, in writing, of the intent to rely on the
44 default certification provision of this subsection.

45 (4) All licensure fees other than the initial application
46 fee, including neurological injury compensation assessments,
47 shall be waived for those persons obtaining an expert witness
48 certificate but not otherwise allowed to practice medicine in
49 this state.

50 (5) The board shall adopt rules to implement this section,
51 including rules setting the amount of the expert witness
52 certificate application fee. The application fee for the expert
53 witness certificate may not exceed \$50. An expert witness
54 certificate shall expire 2 years after the date of issuance.

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

57 458.331 Grounds for disciplinary action; action by the
 58 board and department.--

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

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

63 Section 3. Section 459.0066, Florida Statutes, is created
 64 to read:

65 459.0066 Expert witness certificate.--

66 (1) Any physician who is licensed to practice osteopathic
 67 medicine in any other state or in Canada, whose license is
 68 currently active and valid, who completes a registration form
 69 prescribed by the board, who pays the application fee, and who
 70 has not had a previous expert witness certificate revoked by the
 71 board shall be issued a certificate to provide expert testimony.

72 (2) A physician possessing an expert witness certificate
 73 may use the certificate solely to give a verified written medical
 74 expert opinion as provided in s. 766.203 and to provide expert
 75 testimony concerning the prevailing professional standard of care
 76 in connection with any medical negligence litigation pending in
 77 this state against a physician licensed under this chapter or
 78 chapter 458. The possession of an expert witness certificate
 79 alone does not entitle the physician to engage in the practice of
 80 medicine as defined in s. 458.305(3).

81 (3) Every application for an expert witness certificate
 82 shall be approved or denied within 5 business days after receipt

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83 of a completed application. Any application for a certificate
84 that is not approved or denied within the required time period is
85 considered approved. Any applicant for an expert witness
86 certificate seeking to claim certification by default shall
87 notify the board, in writing, of the intent to rely on the
88 default certification provision of this subsection.

89 (4) All licensure fees other than the initial application
90 fee, including neurological injury compensation assessments,
91 shall be waived for those persons obtaining an expert witness
92 certificate but not otherwise allowed to practice medicine in
93 this state.

94 (5) The board shall adopt rules to implement this section,
95 including rules setting the amount of the expert witness
96 certificate application fee. The application fee for the expert
97 witness certificate may not exceed \$50. An expert witness
98 certificate shall expire 2 years after the date of issuance.

99 Section 4. Paragraph (qq) is added to subsection (1) of
100 section 459.015, Florida Statutes, to read:

101 459.015 Grounds for disciplinary action; action by the
102 board and department.--

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

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

107 Section 5. Subsection (12) of section 766.102, Florida
108 Statutes, is renumbered as subsection (13), and a new subsection
109 (12) is added to that section to read:

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110 766.102 Medical negligence; standards of recovery; expert
111 witness.--

112 (12) If the party against whom or on whose behalf the
113 expert testimony concerning the prevailing professional standard
114 of care is offered is a physician licensed under chapter 458 or
115 chapter 459, the expert witness must be licensed in this state
116 under chapter 458 or chapter 459 or possess an expert witness
117 certificate as provided in s. 458.3175 or s. 459.0066. Expert
118 testimony is not admissible unless the expert providing such
119 testimony is licensed by this state or possesses an expert
120 witness certificate.

121 Section 6. This act shall take effect July 1, 2006.