

HB 1561

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CHAMBER ACTION

1 The Health Care General Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Section 458.3175, Florida Statutes, is created
24 to read:

25 458.3175 Expert witness certificate.--

26 (1) Any physician who is licensed to practice allopathic
27 medicine in any other state or in Canada, whose license is
28 currently active and valid, who completes a registration form
29 prescribed by the board, who pays the application fee, and who
30 has not had a previous expert witness certificate revoked by the
31 board shall be issued a certificate to provide expert testimony.
32 For the purpose of this section, an expert witness certificate
33 shall be considered a license as defined in s. 456.001 and
34 treated as a license in any applicable disciplinary action
35 pursuant to this chapter.

36 (2) A physician possessing an expert witness certificate
37 may use the certificate solely to give a verified written
38 medical expert opinion as provided in s. 766.203 and to provide
39 expert testimony concerning the prevailing professional standard
40 of care in connection with any medical negligence litigation
41 pending in this state against a physician licensed under this
42 chapter or chapter 459. The possession of an expert witness
43 certificate alone does not entitle the physician to engage in
44 the practice of medicine as defined in s. 458.305.

45 (3) Every application for an expert witness certificate
46 shall be approved or denied within 5 business days after receipt
47 of a completed application. Any application for a certificate
48 that is not approved or denied within the required time period
49 is considered approved. Any applicant for an expert witness
50 certificate seeking to claim certification by default shall

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51 notify the board, in writing, of the intent to rely on the
52 default certification provision of this subsection.

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

58 (5) The board shall adopt rules pursuant to ss. 120.536(1)
59 and 120.54 to implement this section, including rules setting
60 the amount of the expert witness certificate application fee.
61 The application fee for the expert witness certificate may not
62 exceed \$50. An expert witness certificate shall expire 2 years
63 after the date of issuance.

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

66 458.331 Grounds for disciplinary action; action by the
67 board and department.--

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

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

72 Section 3. Section 459.0066, Florida Statutes, is created
73 to read:

74 459.0066 Expert witness certificate.--

75 (1) Any physician who is licensed to practice osteopathic
76 medicine in any other state or in Canada, whose license is
77 currently active and valid, who completes a registration form
78 prescribed by the board, who pays the application fee, and who

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79 | has not had a previous expert witness certificate revoked by the
80 | board shall be issued a certificate to provide expert testimony.
81 | For the purpose of this section, an expert witness certificate
82 | shall be considered a license as defined in s. 456.001 and
83 | treated as a license in any applicable disciplinary action
84 | pursuant to this chapter.

85 | (2) A physician possessing an expert witness certificate
86 | may use the certificate solely to give a verified written
87 | medical expert opinion as provided in s. 766.203 and to provide
88 | expert testimony concerning the prevailing professional standard
89 | of care in connection with any medical negligence litigation
90 | pending in this state against a physician licensed under this
91 | chapter or chapter 458. The possession of an expert witness
92 | certificate alone does not entitle the physician to engage in
93 | the practice of osteopathic medicine as defined in s. 459.003.

94 | (3) Every application for an expert witness certificate
95 | shall be approved or denied within 5 business days after receipt
96 | of a completed application. Any application for a certificate
97 | that is not approved or denied within the required time period
98 | is considered approved. Any applicant for an expert witness
99 | certificate seeking to claim certification by default shall
100 | notify the board, in writing, of the intent to rely on the
101 | default certification provision of this subsection.

102 | (4) All licensure fees other than the initial application
103 | fee, including neurological injury compensation assessments,
104 | shall be waived for those persons obtaining an expert witness
105 | certificate but not otherwise allowed to practice osteopathic
106 | medicine in this state.

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107 (5) The board shall adopt rules pursuant to ss. 120.536(1)
108 and 120.54 to implement this section, including rules setting
109 the amount of the expert witness certificate application fee.
110 The application fee for the expert witness certificate may not
111 exceed \$50. An expert witness certificate shall expire 2 years
112 after the date of issuance.

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

115 459.015 Grounds for disciplinary action; action by the
116 board and department.--

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

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

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

124 766.102 Medical negligence; standards of recovery; expert
125 witness.--

126 (12) If the party against whom or on whose behalf the
127 expert testimony concerning the prevailing professional standard
128 of care is offered is a physician licensed under chapter 458 or
129 chapter 459, the expert witness must be licensed in this state
130 under chapter 458 or chapter 459 or possess an expert witness
131 certificate as provided in s. 458.3175 or s. 459.0066. Expert
132 testimony is not admissible unless the expert providing such
133 testimony is licensed by this state or possesses an expert
134 witness certificate.

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135 | Section 6. This act shall take effect October 1, 2006. |