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H.149

Introduced by Representatives Till of Jericho, Branagan of Georgia, Canfield  
of Fair Haven, Clarkson of Woodstock, Evans of Essex,  
Greshin of Warren, Komline of Dorset, Krebs of South Hero,  
Lenes of Shelburne, Masland of Thetford, McCormack of  
Burlington, Parent of St. Albans City, Rachelson of Burlington,  
Troiano of Stannard, Yantachka of Charlotte, and Zagar of  
Barnard

Referred to Committee on

Date:

Subject: Court procedure; medical malpractice

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

An act relating to physician expert witnesses in medical malpractice actions

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

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

2 § 1643a. PHYSICIAN EXPERT WITNESS

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

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

8 (2)(A) is board certified in the same area of specialty as the  
9 defendant; or

10 (B) clinically practices as a specialist in the area of medical practice  
11 involved in the case.

12 (b) The physician expert witness shall be:

13 (1) qualified by experience or demonstrated competence in the area of  
14 medical practice involved in the case;

15 (2) familiar with the standard of care provided at the time of the alleged  
16 occurrence; and

17 (3) actively involved in the area of medical practice involved in the case.

18 (c) The physician expert witness shall state the basis of his or her testimony  
19 or opinion, and whether it is based on personal experience, specific clinical  
20 references, evidence-based guidelines, or a generally accepted opinion in the  
21 specialty field.

1           (d)(1) A retired physician may serve as a physician expert witness if within  
2           the previous three years:

3                   (A) the retired physician held an unrestricted license to practice  
4           medicine; and

5                   (B)(i) was board certified in the same area of specialty as the  
6           defendant; or

7                   (ii) clinically practiced as a specialist in the area of medical  
8           practice involved in the case.

9                   (2) A retired physician shall not serve as a physician expert witness  
10           unless he or she is employed or contracted by an academic institution to teach  
11           medicine or conduct medical research in the defendant's field or a similar field  
12           that addresses a relevant issue in the case.

13           Sec. 2. EFFECTIVE DATE

14           This act shall take effect on July 1, 2015.