

**WORKING DRAFT**

SENATE FILE NO. \_\_\_\_\_

Medical injury-expert witnesses.

Sponsored by: Senator(s) Scott

A BILL

for

1 AN ACT relating to civil actions; specifying requirements  
2 for expert witnesses in medical injury or death actions;  
3 and providing for an effective date.

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5 *Be It Enacted by the Legislature of the State of Wyoming:*

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7 **Section 1.** W.S. 1-1-131 is created to read:

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9 **1-1-131. Medical injury actions; expert witnesses.**

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11 (a) In any action for injury or death against a  
12 licensed physician, whether in contract or in tort, arising  
13 out of the provision of, or failure to provide, health care  
14 services, a person may qualify as an expert witness on the

1 issue of the appropriate medical standard of care if the  
2 witness:

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4 (i) Is licensed in this state, or some other  
5 state, as a doctor of medicine or osteopathy;

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7 (ii) Is trained and experienced in the same  
8 discipline or school of practice as the defendant;

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10 (iii) When certified, is certified by a board  
11 recognized by the American Board of Medical Specialties in  
12 a specialty having acknowledged expertise and training  
13 directly related to the particular health care or matter at  
14 issue; and

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16 (iv) Within five (5) years of the date of the  
17 alleged occurrence giving rise to the claim, was in active  
18 medical practice in the same discipline or school of  
19 practice as the defendant or devoted a substantial portion  
20 of his time teaching at an accredited medical school, or in  
21 university-based research, in relation to the medical care  
22 and type of treatment at issue.

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1           (b) A person who is licensed in another state and who  
2 testifies as an expert witness in this state in any action  
3 for injury or death against a physician, whether in  
4 contract or tort, arising out of the provision of, or  
5 failure to provide, health care services, shall be deemed  
6 to have a temporary license to practice medicine in this  
7 state for the purpose of providing the testimony and shall  
8 be subject to the authority of the board of medicine and  
9 the provisions of W.S. 33-26-401 et seq.

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11           (c) In any action for injury or death against a  
12 physician, whether in contract or tort, arising out of the  
13 provision of, or failure to provide, health care services,  
14 the court may allow cross-examination of a medical expert  
15 witness as to:

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17           (i) The amount of compensation that the witness  
18 has or will receive for the witness's consultation and  
19 testimony;

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21           (ii) The frequency of the physician's expert  
22 witness activities;

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1           (iii) The proportion of the witness'  
2 professional time devoted to and income derived from such  
3 activities; and

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5           (iv) The frequency with which the witness  
6 testifies for either plaintiffs or defendants.

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8           (d) A medical expert witness shall not testify on a  
9 contingency fee basis. A person who violates this section  
10 shall be guilty of unprofessional conduct, as provided by  
11 W.S. 33-26-403(a) (xxvii).

12  
13           (e) In any action for injury or death against a  
14 physician, whether in contract or in tort, arising out of  
15 the provision of, or failure to provide, health care  
16 services, medical evidence shall not be admissible in court  
17 that:

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19           (i) Is provided by a medical expert witness who  
20 has agreed to provide medical testimony on a contingency  
21 fee basis; or

22  
23           (ii) Has been obtained pursuant to an agreement  
24 with a third party who receives a contingency fee for:

1

2 (A) Providing a medical expert for review  
3 of medical injury claims;

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5 (B) Locating medical expert witnesses; or

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7 (C) Arranging the provision of medical  
8 expert testimony.

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10 **Section 2.** This act is effective July 1, 2005.

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(END)