

HOUSE BILL NO. HB0108

Medical injury-expert witnesses.

Sponsored by: Joint Labor, Health and Social Services
Interim Committee

A BILL

for

1 AN ACT relating to civil actions; specifying requirements
2 for expert witnesses to testify in medical injury or death
3 actions; 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
15 issue of the appropriate medical standard of care if the
16 witness:

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

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

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

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

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22 (b) A person who is licensed in another state and who
23 testifies as an expert witness in this state in any action
24 for injury or death against a physician, whether in

1 contract or tort, arising out of the provision of, or
2 failure to provide, health care services, shall be deemed
3 to have a temporary license to practice medicine in this
4 state for the purpose of providing the testimony and shall
5 be subject to the authority of the board of medicine and
6 the provisions of W.S. 33-26-401 et seq.

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8 (c) 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).

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13 (d) 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

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

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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)