SLS 08RS-270 **ORIGINAL**

Regular Session, 2008

SENATE BILL NO. 79

BY SENATOR CASSIDY

MALPRACTICE. Provides with respect to qualifications of medical expert witnesses in medical malpractice actions against physicians. (gov sig)

AN ACT

To amend and reenact R.S. 9:2794(D)(1)(d), relative to medical malpractice and certain liability and limitations; to provide for qualifications of expert witnesses in medical malpractice actions against physicians; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:2794(D)(1)(d) is hereby amended and reenacted to read as follows:

§2794. Physicians, dentists, optometrists, and chiropractic physicians; malpractice; burden of proof; jury charge; physician witness expert qualification

* * *

D.(1) In a medical malpractice action against a physician, licensed to practice medicine by the Louisiana State Board of Medical Examiners under R.S. 37:1261 et seq., for injury to or death of a patient, a person may qualify as an expert witness on the issue of whether the physician departed from accepted standards of medical care only if the person is a physician who meets all of the following criteria:

* * *

(d) He ~~is licensed~~ **holds a current and unrestricted license** to practice medicine **issued** by the Louisiana State Board of Medical Examiners under R.S.

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

37:1261 et seq.; **or** ~~is licensed~~ **holds a current and unrestricted license** to practice medicine **issued** by any other jurisdiction in the United States~~, or is a graduate of a medical school accredited by the American Medical Association's Liaison Committee on Medical Education or the American Osteopathic Association~~.

* * *

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Camille Sebastien Perry.

DIGEST

Present law provides that in a medical malpractice action against a physician, licensed to practice medicine by the Louisiana State Board of Medical Examiners, for injury to or death of a patient, a person may qualify as an expert witness on the issue of whether the physician departed from accepted standards of medical care only if the individual is a physician who: (1) is practicing medicine at the time such testimony is given or was practicing medicine at the time the claim arose, (2) has knowledge of accepted standards of medical care for the diagnosis, care, or treatment of the illness, injury, or condition involved in the claim, (3) is qualified on the basis of training or experience to offer an expert opinion regarding those accepted standards of care, and (4) is licensed to practice medicine by the Louisiana State Board of Medical Examiners under R.S. 37:1261 et seq., is licensed to practice medicine by any other jurisdiction in the United States, or is a graduate of a medical school accredited by the American Medical Association's Liaison Committee on Medical Education or the American Osteopathic Association.

Proposed law changes the last qualification for being an expert witness by providing that the physician is required to hold a current and unrestricted license to practice medicine that is issued by the Louisiana State Board of Medical Examiners or the physician holds a current and unrestricted license to practice medicine issued by any other jurisdiction in the United States, and it deletes requirement that the physician be a graduate of a medical school accredited by the American Medical Association's Liaison Committee on Medical Education or the American Osteopathic Association.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 9:2794((D)(1)(d))

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.