

ASSEMBLY BILL NO. 149—ASSEMBLYMEN SEGERBLOM, PIERCE,
OHRENSCHALL, AIZLEY; BENITEZ-THOMPSON, CARLTON,
DIAZ, FLORES, FRIERSON, HORNE, MUNFORD AND NEAL

FEBRUARY 14, 2011

JOINT SPONSORS: SENATORS PARKS; BREEDEN,
KIHUEN, LESLIE AND MANENDO

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning medical and
dental malpractice claims. (BDR 3-762)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to malpractice; revising provisions relating to the
affidavit of a medical expert which is required to be filed
in medical and dental malpractice actions; and providing
other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires a district court to dismiss an action for medical
2 malpractice or dental malpractice if the action is filed without an affidavit of a
3 medical expert that supports the allegations in the action. (NRS 41A.071) This bill
4 authorizes the plaintiff's attorney in such an action to file the affidavit of a medical
5 expert at a later time under certain circumstances.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 41A.071 is hereby amended to read as
2 follows:
3 41A.071 ~~HH~~
4 ***1. Except as otherwise provided in subsection 2, if*** an action
5 for medical malpractice or dental malpractice is filed in the district
6 court, the district court shall dismiss the action, without prejudice, if



1 the action is filed without an affidavit, supporting the allegations
2 contained in the action, submitted by a medical expert who practices
3 or has practiced in an area that is substantially similar to the type of
4 practice engaged in at the time of the alleged malpractice.

5 *2. The plaintiff's attorney in such an action may file the*
6 *affidavit required pursuant to subsection 1 at a later time if the*
7 *substance of the affidavit was incorporated into the body of*
8 *the complaint and its absence was caused by a clerical error, or*
9 *the attorney could not consult with an expert and prepare the*
10 *affidavit before filing the action without causing the action to be*
11 *impaired or barred by the statute of limitations or repose, or other*
12 *limitations prescribed by law. If the attorney must submit the*
13 *affidavit late, the attorney shall file an affidavit concurrently with*
14 *the service of the first pleading in the action stating the reason for*
15 *failing to comply with subsection 1 and the attorney shall consult*
16 *with an expert and file the affidavit required pursuant to*
17 *subsection 1 not later than 45 days after filing the action.*

