

Amendment No. 474

Assembly Amendment to Assembly Bill No. 149

(BDR 3-762)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold underlining*** is newly added transitory language.

AMI/RRY



Date: 4/24/2011

A.B. No. 149—Makes various changes concerning medical and dental malpractice claims. (BDR 3-762)



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.

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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:

Existing law requires a district court to dismiss an action for medical malpractice or
dental malpractice if the action is filed without an affidavit of a medical expert that supports
the allegations in the action. (NRS 41A.071) This bill authorizes the plaintiff's attorney in
such an action to file the affidavit of a medical expert at a later time under certain
circumstances. This bill also authorizes the defendant to file a responsive pleading within
20 days after receiving the affidavit.

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

Section 1. NRS 41A.071 is hereby amended to read as follows:

41A.071 ~~[[~~

1. Except as otherwise provided in subsection 2, if an action for medical
malpractice or dental malpractice is filed in the district court, the district court shall
dismiss the action, without prejudice, if the action is filed without an affidavit,
supporting the allegations contained in the action, submitted by a medical expert
who practices or has practiced in an area that is substantially similar to the type of
practice engaged in at the time of the alleged malpractice.

1 2. The plaintiff's attorney in such an action may file the affidavit required
2 pursuant to subsection 1 ~~at a later time~~ not later than the period of limitation
3 prescribed by NRS 41A.097 if the substance of the affidavit was incorporated into
4 the body of the complaint and its absence was caused by a clerical error, for the
5 attorney could not consult with an expert and prepare the affidavit before filing
6 the action without causing the action to be impaired or barred by the statute of
7 limitations or repose, or other limitations prescribed by law. If the attorney must
8 submit the affidavit late, the attorney shall file an affidavit concurrently with the
9 service of the first pleading in the action stating the reason for failing to comply
10 with subsection 1 and the attorney shall consult with an expert and file the
11 affidavit required pursuant to subsection 1 not later than 45 days after filing the
12 action. mistake, inadvertence, surprise or excusable neglect. The claim for
13 medical malpractice or dental malpractice shall be deemed to be served upon the
14 defendant when the defendant has received personal service of a copy of:

15 (a) The summons and the complaint; and

16 (b) The affidavit required pursuant to subsection 1.

17 3. If, as authorized pursuant to subsection 2, the affidavit required pursuant
18 to subsection 1 is filed after the action for medical malpractice or dental
19 malpractice is filed in district court, the defendant may file a responsive pleading
20 within 20 days after the affidavit is filed.