
HOUSE BILL 2840

State of Washington 58th Legislature 2004 Regular Session

By Representatives Schual-Berke, Linville and Morrell

Read first time 01/21/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to expert witness qualifications in action under
2 chapter 7.70 RCW; and adding new sections to chapter 7.70 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 7.70 RCW
5 to read as follows:

6 (1) In an action against a health care provider under this chapter,
7 an expert may not provide testimony at trial, or execute a certificate
8 of merit if required under this chapter, unless the expert meets the
9 following criteria:

10 (a) Has recognized expertise in any area of practice or specialty
11 at issue in the action, as demonstrated by devotion of a significant
12 portion of his or her practice to the area of practice or specialty;

13 (b) Was licensed as a health care provider in Washington at the
14 time of the occurrence of the incident at issue in the action; and

15 (c) At the time of the occurrence of the incident at issue in the
16 action, was either:

17 (i) Engaged in active practice in the same area of practice or
18 specialty as the defendant; or

1 (ii) Teaching at an accredited medical school or an accredited or
2 affiliated academic or clinical training program in the same area of
3 practice or specialty as the defendant, including instruction regarding
4 the particular condition at issue.

5 (2) Upon motion of a party, the court may waive the requirements of
6 subsection (1) of this section and allow an expert who does not meet
7 those requirements to testify at trial or execute any certificate of
8 merit required under this chapter if the court finds that:

9 (a) Extensive efforts were made by the party to locate an expert
10 who meets the criteria under subsection (1) of this section, but none
11 was willing and available to testify; and

12 (b) The proposed expert is qualified to be an expert witness by
13 virtue of the person's training, experience, and knowledge.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.70 RCW
15 to read as follows:

16 An expert opinion provided in the course of an action against a
17 health care provider under this chapter must be corroborated by
18 objective evidence, such as, but not limited to, treatment or practice
19 protocols or guidelines developed by medical specialty organizations,
20 objective academic research, or clinical trials or studies.

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