
By: **Delegates Zirkin and Bohanan**

Introduced and read first time: January 26, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Malpractice Actions - Attesting Experts - Qualifications**

3 FOR the purpose of establishing qualifications of an attesting expert in health care
4 malpractice actions; and generally relating to attesting experts in health care
5 malpractice actions against certain professionals.

6 BY repealing and reenacting, with amendments,
7 Article - Courts and Judicial Proceedings
8 Section 3-2A-02(c)
9 Annotated Code of Maryland
10 (2002 Replacement Volume and 2004 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Courts and Judicial Proceedings**

14 3-2A-02.

15 (c) (1) In any action for damages filed under this subtitle, the health care
16 provider is not liable for the payment of damages unless it is established that the care
17 given by the health care provider is not in accordance with the standards of practice
18 among members of the same health care profession with similar training and
19 experience situated in the same or similar communities at the time of the alleged act
20 giving rise to the cause of action.

21 (2) IN ADDITION TO ANY OTHER QUALIFICATIONS, A HEALTH CARE
22 PROVIDER ATTESTING A CERTIFICATE OF QUALIFIED EXPERT OR TESTIFYING IN
23 RELATION TO A PROCEEDING BEFORE AN ARBITRATION PANEL OR A COURT
24 CONCERNING COMPLIANCE WITH OR DEPARTURE FROM STANDARDS OF CARE:

25 (I) SHALL HAVE HAD ACTIVE CLINICAL EXPERIENCE IN EITHER
26 THE DEFENDANT'S SPECIALTY OR A RELATED FIELD OF MEDICINE WITHIN 1 YEAR OF
27 THE DATE OF THE ALLEGED ACT OR OMISSION GIVING RISE TO THE CAUSE OF
28 ACTION; AND

1 (II) IF THE DEFENDANT IS BOARD CERTIFIED IN A SPECIALTY,
2 SHALL BE BOARD CERTIFIED IN THE SAME OR A RELATED SPECIALTY AS THE
3 DEFENDANT.

4 (3) A HEALTH CARE PROVIDER TESTIFYING IN RELATION TO A
5 PROCEEDING BEFORE AN ARBITRATION PANEL OR A COURT CONCERNING
6 COMPLIANCE WITH OR DEPARTURE FROM STANDARDS OF CARE SHALL COMPLY
7 WITH THE PROVISIONS OF § 3-2A-04(B)(4) OF THIS SUBTITLE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2005.