

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

FEBRUARY 14, 2011

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

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. This bill also authorizes the
6 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:

1 **Section 1.** NRS 41A.071 is hereby amended to read as
2 follows:
3 41A.071 ~~HF~~
4 *1. Except as otherwise provided in subsection 2, if* an action
5 for medical malpractice or dental malpractice is filed in the district



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

6 *2. The plaintiff's attorney in such an action may file the*
7 *affidavit required pursuant to subsection 1 not later than the*
8 *period of limitation prescribed by NRS 41A.097 if the substance of*
9 *the affidavit was incorporated into the body of the complaint and*
10 *its absence was caused by a clerical error, mistake, inadvertence,*
11 *surprise or excusable neglect. The claim for medical malpractice*
12 *or dental malpractice shall be deemed to be served upon the*
13 *defendant when the defendant has received personal service of a*
14 *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*
18 *required pursuant to subsection 1 is filed after the action for*
19 *medical malpractice or dental malpractice is filed in district court,*
20 *the defendant may file a responsive pleading within 20 days after*
21 *the affidavit is filed.*

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