Expert Testimony Provisions Act

Summary

The purpose of this Act is to outline the qualifications of expert witnesses in medical malpractice actions and to prohibit contingency fees for expert witnesses. This legislation accomplishes two important goals. First, it would eliminate bias and unfair testimony made by expert witnesses. And second, it would prohibit underqualified professionals from testifying. The Expert Testimony Provisions Act provides the qualifications of expert testimony. Such expert testimony may be admitted only if witness is qualified in the “field in which the expert is called” and the testimony is “based on a widely accepted explanatory theory.” Contingency fees would be prohibited for expert witnesses. A part may, through interrogatories, deposition and document requests, require identification for experts, the subject matter in which they are expected to testify, and a list of formal training and publications, etc.

Section 1. This Act may be cited as the Expert Testimony Provision Act.

Section 2. {Qualification of Expert Testimony}

(A) If the court finds:

(1) that scientific, technical, or otherwise specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue;

(2) that the witness is licensed by the appropriate regulatory agency to practice his or her profession in the state;

(3) that the witness is qualified as an expert in the field for which the expert is called to testify by knowledge, skill, experience, training, or education; and

(4) that the testimony is based on a widely accepted explanatory theory;

(B) Then the witness may testify thereto in the form of an opinion or otherwise.

Section 3. {Prohibition on Contingent Fee for Expert Witness} A witness shall be qualified to testify as an expert witness only if the court finds that any compensation to the witness directly or indirectly will not vary as a result of any outcome of the case.

Section 4. {Interrogatories} A party may through interrogatories require any other party to identify each person whom the other party expects to call an expert witness at trial, to state the subject matter on which the expert is expected to testify, to state the substance of the facts and opinions to whom the expert is expected to testify and a summary of the grounds for each opinion, to list the expert’s formal training and a list of the expert’s publications, and to state the compensation fee for expert.

Section 5. {Deposition} A party may, without the necessity of a court order, depose each person the other party expects to call as an expert witness at trial, at a reasonable time prior to trial as long as the party seeking discovery pays the expert a reasonable fee for the time spent in the deposition, unless by motion a court determines the payment of such fees would result in manifest injustice, or the parties agree otherwise.

Section 6. {Document Requests} A party may, without the necessity of a court order, request all documents upon which the expert relies or has reviewed in preparation for his testimony.

Section 7. {Severity clause}

Section 8. {Repealer clause}
Section 9. {Effective date}


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