



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 2/6/2004, by Tom Cross

SYNOPSIS AS INTRODUCED:

735 ILCS 5/8-2501

from Ch. 110, par. 8-2501

Amends the Code of Civil Procedure. Changes the standards that the court shall apply to determine if a witness qualifies as an expert witness as follows: (i) whether the witness is board certified or board eligible in the same medical specialties as the defendant and is familiar with the same medical problems or the type of treatment administered in the case (instead of the same relationship of the medical specialties of the witness to the medical problem and the type of treatment in the case); (ii) whether the witness has devoted 75% (instead of a substantial portion) of his or her time to the practice of medicine, teaching, or university based research in relation to the medical care and type of treatment at issue; and (iii) whether the witness is licensed by any state or the District of Columbia (instead of just licensed). Provides that an expert witness shall provide proof of active practice, teaching, or engagement in university based research. Provides that, if retired, an expert must provide proof of attendance and completion of continuing education courses for the 3 years previous to giving testimony. Provides that an expert who has not actively practiced, taught, or been engaged in university based research within the 10 years previous to giving testimony may not be qualified as an expert witness.

LRB093 18697 LCB 44425 b

1 AN ACT concerning expert witnesses.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 8-2501 as follows:

6 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

7 (Text of Section WITHOUT the changes made by P.A. 89-7,
8 which has been held unconstitutional)

9 Sec. 8-2501. Expert Witness Standards. In any case in which
10 the standard of care applicable to ~~given by~~ a medical
11 professional ~~profession~~ is at issue, the court shall apply the
12 following standards to determine if a witness qualifies as an
13 expert witness and can testify on the issue of the appropriate
14 standard of care.

15 (a) Whether the witness is board eligible in the same
16 medical specialties as the defendant and is familiar with the
17 same ~~Relationship of the medical specialties of the witness to~~
18 ~~the~~ medical problem or problems and the type of treatment
19 administered in the case;

20 (b) Whether the witness has devoted 75% ~~a substantial~~
21 ~~portion~~ of his or her time to the practice of medicine,
22 teaching or University based research in relation to the
23 medical care and type of treatment at issue which gave rise to
24 the medical problem of which the plaintiff complains;

25 (c) whether the witness is licensed by any state or the
26 District of Columbia in the same profession as the defendant;
27 and

28 (d) whether, in the case against a nonspecialist, the
29 witness can demonstrate a sufficient familiarity with the
30 standard of care practiced in this State.

31 An expert shall provide proof of active practice, teaching,
32 or engagement in university based research. If retired, an

1 expert must provide proof of attendance and completion of
2 continuing education courses for 3 years previous to giving
3 testimony. An expert who has not actively practiced, taught, or
4 been engaged in university-based research within the 10 years
5 previous to giving testimony may not be qualified as an expert
6 witness.

7 This amendatory Act of the 93rd General Assembly applies to
8 causes of action filed on or after its effective date.

9 (Source: P.A. 84-7.)