

1 Representative Lindsey of the 54th and Representative Willard of the 49th move to amend
2 the Committee substitute to SB 3 by striking all matter beginning with line 24 of page 10 and
3 ending with line 26 of page 11 and inserting in lieu thereof the following:

4 "(c) In any action for recovery of damages based on the death or personal injury of any
5 person in which it is alleged that such death or injury resulted from medical negligence, a
6 person may not give expert testimony concerning the prevailing professional standard of
7 care unless that person is a licensed health care provider and meets the following criteria:

8 (1) If the health care provider against whom or on whose behalf the testimony is offered
9 is a specialist, the expert witness must:

10 (A) Specialize in the same specialty as the health care provider against whom or on
11 whose behalf the testimony is offered; or specialize in a similar specialty that includes
12 the evaluation, diagnosis, or treatment of the medical condition that is the subject of the
13 claim and have prior experience treating similar patients; and

14 (B) Have devoted over 75 percent of his or her professional time during the three years
15 immediately preceding the date of the occurrence that is the basis for the action to one
16 or more of the following:

17 (i) The active clinical practice of, or consulting with respect to, the same or similar
18 specialty that includes the evaluation, diagnosis, or treatment of the medical condition
19 that is the subject of the claim and have prior experience treating similar patients;

20 (ii) The instruction of students in an accredited health professional school or
21 accredited residency or clinical research program in the same or similar specialty; or

22 (iii) A clinical research program that is affiliated with an accredited health
23 professional school or accredited residency or clinical research program in the same
24 or similar specialty;

25 (2) If the health care provider against whom or on whose behalf the testimony is offered
26 is a general practitioner, the expert witness must have devoted over 75 percent of his or
27 her professional time during the five years immediately preceding the date of the
28 occurrence that is the basis for the action to:

29 (A) The active clinical practice of or consultation as a general practitioner;

30 (B) The instruction of students in an accredited health professional school or accredited
31 residency program in the general practice of medicine; or

32 (C) A clinical research program that is affiliated with an accredited medical school or
33 teaching hospital and that is in the general practice of medicine; or

34 (3) If the health care provider against whom or on whose behalf the testimony is offered
35 is a health care provider other than a specialist or a general practitioner, the expert

1 witness must have devoted 75 percent of his or her professional time during the three
2 years immediately preceding the date of the occurrence that is the basis for the action to:

3 (A) The active clinical practice of, or consulting with respect to, the same or similar
4 health profession as the health care provider against whom or on whose behalf the
5 testimony is offered;

6 (B) The instruction of students in an accredited health professional school or accredited
7 residency program in the same or similar health profession in which the health care
8 provider against whom or on whose behalf the testimony is offered; or

9 (C) A clinical research program that is affiliated with an accredited medical school or
10 teaching hospital and that is in the same or similar health profession as the health care
11 provider against whom or on whose behalf the testimony is offered.

12 A specialist trained in the evaluation, treatment, or diagnosis of a condition shall be
13 considered as practicing in a similar specialty or similar health provision as a health care
14 provider who treated that condition when that condition was not within the area of his or
15 her specialty.

16 (d) A physician who qualifies as an expert witness under Code Section 51-13-3 and who,
17 by reason of active clinical practice or instruction of students, has knowledge of the
18 applicable standard of care for nurses, nurse practitioners, certified registered nurse
19 anesthetists, certified registered nurse midwives, physician assistants, or other medical
20 support staff may give expert testimony in a medical negligence action with respect to the
21 standard of care of such medical support staff.

22 (e) Notwithstanding any provision of Code Section 51-13-3, in a medical negligence
23 action against a hospital, a health care facility, or medical facility, a person may give expert
24 testimony on the appropriate standard of care as to administrative and other nonclinical
25 issues if the person has substantial knowledge, by virtue of his or her training and
26 experience, concerning the standard of care among hospitals, health care facilities, or
27 medical facilities of the same type as the hospital, health care facility, or medical facility
28 whose acts or omissions are the subject of the testimony and which are located in the same
29 or similar communities at the time of the alleged act giving rise to the cause of action."

30 By changing the designations "(d)", "(e)", and "(f)", on lines 27, 31, and 34 of page 11 to "(f)",
31 "(g)", and "(h)", respectively.

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