

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend House Bill No. 2458, Page 11, Line 12 1/2, by inserting a new SECTION 2 to read as per attached, by renumbering subsequent sections, and by amending the title to conform.

Submitted by:

Senator Paddack

Paddack-TEK-FA-HB2458

1 “SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes
2 as Section 111 of Title 76, unless there is created a duplication in numbering, reads as follows:

3 A. 1. In any civil action for professional negligence, except as provided in subsection B of
4 this section, the plaintiff shall attach to the petition an affidavit attesting that:

- 5 a. the plaintiff has consulted and reviewed the facts of the claim with a qualified
6 expert,
- 7 b. the plaintiff has obtained a written opinion from a qualified expert that clearly
8 identifies the plaintiff and includes the expert’s determination that, based upon
9 a review of the available material including, but not limited to, applicable
10 medical records, facts or other relevant material, a reasonable interpretation of
11 the facts supports a finding that the acts or omissions of the defendant against
12 whom the action is brought constituted professional negligence, and
- 13 c. on the basis of the qualified expert's review and consultation, the plaintiff has
14 concluded that the claim is meritorious and based on good cause.

15 2. If the civil action for professional negligence is filed:

- 16 a. without an affidavit being attached to the petition, as required in paragraph 1 of
17 this subsection, and
- 18 b. no extension of time is subsequently granted by the court, pursuant to
19 subsection B of this section,

20 the court shall, upon motion of the defendant, dismiss the action without prejudice to its refileing.

21 3. The written opinion from the qualified expert shall state the acts or omissions of the
22 defendant or defendants that the expert then believes constituted professional negligence and shall
23 include reasons explaining why the acts or omissions constituted professional negligence. The
24 written opinion from the qualified expert shall not be admissible at trial for any purpose nor shall

1 any inquiry be permitted with regard to the written opinion for any purpose either in discovery or at
2 trial.

3 B. 1. The court may, upon application of the plaintiff for good cause shown, grant the
4 plaintiff an extension of time, not exceeding ninety (90) days after the date the petition is filed,
5 except for good cause shown, to file in the action an affidavit attesting that the plaintiff has obtained
6 a written opinion from a qualified expert as described in paragraph 1 of subsection A of this section.

7 2. If on the expiration of an extension period described in paragraph 1 of this subsection, the
8 plaintiff has failed to file in the action an affidavit as described above, the court shall, upon motion
9 of the defendant, unless good cause is shown for such failure, dismiss the action without prejudice to
10 its refiling.

11 C. 1. Upon written request of any defendant in a civil action for professional negligence, the
12 plaintiff shall, within ten (10) business days after receipt of such request, provide the defendant with:

- 13 a. a copy of the written opinion of a qualified expert mentioned in an affidavit
14 filed pursuant to subsection A or B of this section, and
15 b. an authorization from the plaintiff in a form that complies with applicable state
16 and federal laws, including the Health Insurance Portability and Accountability
17 Act of 1996, for the release of any and all medical records related to the
18 plaintiff for a period commencing five (5) years prior to the incident that is at
19 issue in the civil action for professional negligence.

20 2. If the plaintiff fails to comply with paragraph 1 of this subsection, the court shall, upon
21 motion of the defendant, unless good cause is shown for such failure, dismiss the action without
22 prejudice to its refiling.”