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State of Minnesota

HOUSE OF REPRESENTATIVES

SPECIAL SESSION

H. F. No. 129

06/16/2020 Authored by Lesch
The bill was read for the first time and referred to the Judiciary Finance and Civil Law Division

1.1 A bill for an act
1.2 relating to civil actions; requiring affidavit requirements; preserving causes of
1.3 action during peacetime emergency declaration; amending Minnesota Statutes
1.4 2018, sections 145.682, subdivision 4; 573.01.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2018, section 145.682, subdivision 4, is amended to read:

1.7 Subd. 4. Identification of experts to be called. (a) The affidavit required by subdivision
1.8 2, clause (2), must be signed by each expert listed in the affidavit and by the plaintiff's
1.9 attorney and state the identity of each person whom plaintiff expects to call as an expert
1.10 witness at trial to testify with respect to the issues of malpractice or causation, the substance
1.11 of the facts and opinions to which the expert is expected to testify, and a summary of the
1.12 grounds for each opinion. If the plaintiff's cause of action in the complaint occurred during
1.13 the peacetime emergency declared by the governor in an executive order that relates to
1.14 COVID-19, the affidavit shall address the following:

1.15 (1) whether or not the circumstances surrounding the COVID-19 pandemic, known to
1.16 exist at the time of the cause of action, in any way impacted the defendant's conduct;

1.17 (2) whether the defendant was acting in the defendant's normal scope of practice;

1.18 (3) whether Executive Order 20-09 issued on March 20, 2020, regarding nonemergency
1.19 medical care specifically limited the defendant's ability to provide care;

1.20 (4) the state of medical knowledge concerning the diagnosis and treatment of COVID-19
1.21 at the time of the defendant's conduct in question in the complaint; and

2.1 (5) whether the shortage or lack of personal protective equipment and other medical
2.2 supplies impacted by the COVID-19 pandemic were documented in the medical records in
2.3 question.

2.4 Answers to interrogatories that state the information required by this subdivision satisfy the
2.5 requirements of this subdivision if they are signed by the plaintiff's attorney and by each
2.6 expert listed in the answers to interrogatories and served upon the defendant within 180
2.7 days after commencement of discovery under the Rules of Civil Procedure, rule 26.04(a).

2.8 (b) The parties or the court for good cause shown, may by agreement, provide for
2.9 extensions of the time limits specified in subdivision 2, 3, or this subdivision. Nothing in
2.10 this subdivision may be construed to prevent either party from calling additional expert
2.11 witnesses or substituting other expert witnesses.

2.12 (c) In any action alleging medical malpractice, all expert interrogatory answers must be
2.13 signed by the attorney for the party responding to the interrogatory and by each expert listed
2.14 in the answers. The court shall include in a scheduling order a deadline prior to the close
2.15 of discovery for all parties to answer expert interrogatories for all experts to be called at
2.16 trial. No additional experts may be called by any party without agreement of the parties or
2.17 by leave of the court for good cause shown.

2.18 Sec. 2. Minnesota Statutes 2018, section 573.01, is amended to read:

2.19 **573.01 SURVIVAL OF CAUSES.**

2.20 (a) A cause of action arising out of an injury to the person dies with the person of the
2.21 party in whose favor it exists, except as provided in section 573.02. All other causes of
2.22 action by one against another, whether arising on contract or not, survive to the personal
2.23 representatives of the former and against those of the latter.

2.24 (b) Notwithstanding the limitations in section 573.02, a cause of action pending,
2.25 commenced, or accrued during the peacetime emergency declared by the governor in an
2.26 executive order that relates to COVID-19 shall survive to the personal representative of the
2.27 decendent for all special and general damages sustained. This provision shall not apply to
2.28 causes of actions that accrue after the expiration of the peacetime emergency.