

Fifty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2217

Introduced by

Senator W. Stenehjem

1 A BILL for an Act to amend and reenact section 28-01-46 of the North Dakota Century Code,
2 relating to expert witnesses in medical malpractice actions.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 28-01-46 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **28-01-46. Expert opinion required to maintain an action based upon alleged**
7 **medical negligence except in obvious cases.** Any action for injury or death against a
8 physician, nurse, or hospital licensed by this state based upon professional negligence ~~is~~
9 ~~dismissable~~ must be dismissed without prejudice on motion unless the claimant has obtained
10 an admissible expert opinion to support the allegation of professional negligence within three
11 months of the commencement of the action or at such later date as set by the court for good
12 cause shown by the plaintiff. The expert's affidavit must identify the name and business
13 address of the expert, indicate the expert's field of expertise, and contain a brief summary of the
14 basis for the expert's opinion. This section does not apply to alleged lack of informed consent,
15 unintentional failure to remove a foreign substance from within the body of a patient, or
16 performance of a medical procedure upon the wrong patient, organ, limb, or other part of the
17 patient's body, or other obvious occurrence.