AMENDMENT TO RULES COMMITTEE PRINT 115-10

OFFERED BY MR. HUDSON OF NORTH CAROLINA

Add, at the end of the bill, the following:

1 **SEC. 11. AFFIDAVIT OF MERIT.**

2 (a) REQUIRED FILING.—Subject to subsection (b),

3 the plaintiff in a health care lawsuit alleging negligence

4 or, if the plaintiff is represented by an attorney, the plain-

5 tiff's attorney shall file simultaneously with the health

6 care lawsuit an affidavit of merit signed by a health pro-

7 fessional who meets the requirements for an expert wit-

8 ness under section 14 of this Act. The affidavit of merit

9 shall certify that the health professional has reviewed the

10 notice and all medical records supplied to him or her by

11 the plaintiff's attorney concerning the allegations con-

12 tained in the notice and shall contain a statement of each

13 of the following:

14 (1) The applicable standard of practice or care.

15 (2) The health professional's opinion that the

16 applicable standard of practice or care was breached

17 by the health professional or health facility receiving

18 the notice.

1 　　　(3) The actions that should have been taken or

2 　　omitted by the health professional or health facility

3 　　in order to have complied with the applicable stand-

4 　　ard of practice or care.

5 　　　(4) The manner in which the breach of the

6 　　standard of practice or care was the proximate cause

7 　　of the injury alleged in the notice.

8 　　　(5) A listing of the medical records reviewed.

9 　　(b) FILING EXTENSION.—Upon motion of a party for

10 good cause shown, the court in which the complaint is filed

11 may grant the plaintiff or, if the plaintiff is represented

12 by an attorney, the plaintiff's attorney an additional 28

13 days in which to file the affidavit required under sub-

14 section (a).

15 　　(c) STATE FLEXIBILITY.—No provision of this sec-

16 tion shall be construed to preempt any State law (whether

17 effective before, on, or after the date of the enactment of

18 this Act) that establishes additional requirements for the

19 filing of an affidavit of merit or similar pre-litigation docu-

20 mentation.

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