

2009-13

>>> Clerk Info 10/1/2009 1:25 PM >>>

>>> David Christensen <dechristensen@michiganautolaw.com> 10/1/2009 11:51 AM >>>
The following comments are submitted on behalf of Jose Brown, Chairman of the Negligence Section of the State Bar of Michigan:

Dear Clerk Davis;

I am writing on behalf of the Negligence Section of the State Bar of Michigan. Our Section support the proposed amendments to MCR 2.112(L) and 2.118(D). These are badly needed to restore fairness to litigated medical malpractice claims. A great many meritorious claims have been barred without having any hearing on the merits of the claim due to the unfair application of time limits when challenges are made to their Notice of Intent and Affidavit of Merit.

Our Section strongly supports these Amendments as written, but some members of our Section have suggested a potential improvement. They noted that a party may not know the qualifications of an expert within 63 days, so they would like to see a provision that provides for an opportunity to challenge within a short period of time after learning, or having had the opportunity to learn, of the potential qualification issue.

The Negligence Section, however, does not predicate its support of the Amendments on the inclusion of such a provision. We support the amendments as they are proposed. They would restore balance and consistency, and thereby enhance fairness, to the malpractice litigation process.

Jose Brown
Chairman of the Negligence Section, State Bar of Michigan

Cline Cline & Griffin PC
503 S Saginaw St Ste 1000
Mott Foundation Bldg
Flint, MI 48502