## GENERAL ASSEMBLY OF NORTH CAROLINA

## **SESSION 1999**

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## SENATE BILL 1012 Judiciary I Committee Substitute Adopted 4/28/99

Short Title: Medical Malpractice Pleadings.	(Public			
Sponsors:	-			
Referred to:	-			

## April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PRESIDING JUDGE IN A COUNTY WITH PROPER VENUE TO EXTEND THE STATUTE OF LIMITATIONS IN A MEDICAL MALPRACTICE ACTION THAT WAS IMPROPERLY PLEADED UNDER RULE 9 OF THE RULES OF CIVIL PROCEDURE.

The General Assembly of North Carolina enacts:

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Section 1. G.S. 1A-1, Rule 9(j) reads as rewritten:

- "(j) Medical malpractice. Any complaint alleging medical malpractice by a health care provider as defined in G.S. 90-21.11 in failing to comply with the applicable standard of care under G.S. 90-21.12 shall be dismissed unless:
  - (1) The pleading specifically asserts that the medical care has been reviewed by a person who is reasonably expected to qualify as an expert witness under Rule 702 of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care;
  - (2) The pleading specifically asserts that the medical care has been reviewed by a person that the complainant will seek to have qualified as an expert witness by motion under Rule 702(e) of the Rules of Evidence and who is willing to testify that the medical care did not comply with

1		the	applicable	standa	rd of	care,	and	the	motion	is	filed	with	the
2		con	nplaint; or										
3	(3)	The	pleading a	illeges	facts	establi	shing	neg	ligence	und	er the	e exis	ting

(3) The pleading alleges facts establishing negligence under the existing common-law doctrine of res ipsa loquitur.

Upon motion by the complainant prior to the expiration of the applicable statute of limitations, a resident or presiding judge of the superior court of the a county in which venue for the cause of action arose is proper may allow a motion to extend the statute of limitations for a period not to exceed 120 days to file a complaint in a medical malpractice action in order to comply with this Rule, upon a determination that good cause exists for the granting of the motion and that the ends of justice would be served by an extension. The plaintiff shall provide, at the request of the defendant, proof of compliance with this subsection through up to ten written interrogatories, the answers to which shall be verified by the expert required under this subsection. These interrogatories do not count against the interrogatory limit under Rule 33."

Section 2. This act becomes effective October 1, 1999.