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Time cushion sought in Nevada malpractice cases

Backers of a Nevada bill that would give plaintiffs a 45-day “time cushion” to obtain and file an expert witness affidavit call it an issue of fairness. At a hearing before the state’s Assembly Judiciary Committee, witnesses noted that in some cases, affidavits become separated from lawsuits or cannot be obtained within the 1-year statute of limitations.

Opponents of the bill say that if the time cushion became law, it would erode provisions of a 2004 initiative passed by voters to cap malpractice awards and reduce so-called frivolous litigation. They maintain that 1-year statute of limitations allows enough time

Patrick A. Malone
Patrick Malone & Associates, P.C.
1331 H Street N.W.
Suite 902
Washington, DC 20005

pmalone@patrickmalonelaw.com
www.patrickmalonelaw.com
202-742-1500
202-742-1515 (fax)

for those with meritorious claims to find an attorney, secure medical records and a medical expert affidavit..

However, the Committee heard differently from witness Sandra Payan, who testified that her mother's death following a hernia operation was later determined to have been caused by a punctured colon which then ruptured. After more than 2 years, the malpractice suit filed by the family was dismissed just weeks before trial after defense attorneys successfully argued the affidavit was not filed along with the suit but instead was filed separately a few days later.

After Payan's testimony, one member of the Assembly agreed that dismissing a suit because an affidavit may have gotten lost in a clerical error was a harsh penalty and said the 45-day window would be "beneficial to both parties."

Source: [Businessweek](#)

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