S T A T E O F N E W Y O R K

1254--A

Cal. No. 112

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. LANCMAN, WEINSTEIN, SCHROEDER, PERALTA, KELLNER, COLTON -- Multi-Sponsored by -- M. of A. BING, BOYLAND, JAFFEE, PHEFFER, TITONE -- read once and referred to the Committee on Judiciary -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the civil practice law and rules, in relation to ex-parte interviews of non-party treating physicians and health care providers in certain actions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 3102 of the civil practice law and rules is amended by adding a new subdivision (c-1) to read as follows:

(C-1) EX-PARTE INTERVIEWS. IN ANY ACTION INVOLVING PERSONAL INJURY, MEDICAL, DENTAL, OR PODIATRIC MALPRACTICE OR WRONGFUL DEATH, NO PARTY OR ANYONE ACTING ON BEHALF OF A PARTY MAY EITHER DIRECTLY OR INDIRECTLY CONDUCT EX-PARTE INTERVIEWS WITH THE TREATING PHYSICIANS OR OTHER HEALTH CARE PROVIDERS OF ANY OTHER PARTY. NOTHING IN THIS SUBDIVISION SHALL PROHIBIT AN ATTORNEY OR THE AGENT OR EMPLOYEE OF AN ATTORNEY WHO REPRESENTS THE PATIENT, THE ESTATE OF THE PATIENT, OR THE NATURAL OR DULY APPOINTED GUARDIAN OF THE PATIENT WHOSE CONDITION IS AT ISSUE IN THE ACTION FROM CONDUCTING EX-PARTE CONVERSATIONS WITH A TREATING PHYSICIAN OR OTHER HEALTH CARE PROVIDER OF THE PATIENT.

S 2. This act shall take effect on the thirtieth day after it shall have become a law and shall apply to all actions involving personal injury, medical, dental or podiatric malpractice, or wrongful death filed on and after such date and to all such actions pending on such effective date except as to conduct prohibited by section one of this act which occurred prior to such effective date.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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