

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

QUINETTE MUHAMMAD, as)
Guardian of the person and property of)
BENJAMIN SUDLER, III,)
)
Plaintiff,) C.A. No. N10C-11-155 MMJ
)
v.)
)
CORRECTIONAL MEDICAL)
SERVICES, INC. and)
CORRECTIONAL MEDICAL)
SERVICES OF DELAWARE, INC.,)
)
Defendants.)

Submitted: October 11, 2011

Decided: November 4, 2011

Upon Motion of Correctional Medical Services, Inc.
and Correctional Medical Services of Delaware, Inc.
for Review of the Affidavit of Merit
Pursuant to 18 Del. C. §§ 6853(a)(1) and (c)

ORDER

Section 6853(a)(1) of title 18 of the Delaware Code provides that all healthcare negligence complaints must be accompanied by an affidavit of merit as to each defendant signed by an expert witness, accompanied by a current *curriculum vitae* of the witness, stating that there are reasonable grounds to

believe that there has been healthcare medical negligence committed by each defendant.

In this case, the affidavit of merit was filed under seal, as required.

Pursuant to 18 *Del. C.* § 6853(d), Defendants Correctional Medical Services, Inc. and Correctional Medical Services of Delaware, Inc. requested *in camera* review of the affidavit to determine compliance with sections 6853(a)(1) and (c). The Court has reviewed the affidavit of merit. The Court finds:

1. The affidavit is signed by an expert witness.
2. **The affidavit IS NOT accompanied by a current *curriculum vitae*.**
3. The affidavit sets forth the expert's opinion that there are reasonable grounds to believe that the applicable standard of care was breached by each named defendant.
4. The affidavit sets forth the expert's opinion that there are reasonable grounds to believe that specifically enumerated breaches by each defendant proximately caused the injuries claimed in the complaint.
5. The expert witness was licensed to practice medicine as of the date of the affidavit.

6. In the 3 years immediately preceding the alleged negligent act, the expert witness was engaged in the treatment of patients and/or in the teaching/academic side of medicine in the field of Emergency Medicine.

7. The expert witness is board-certified in Emergency Medicine, and is a Certified Correctional Healthcare Provider.

THEREFORE, the Court having reviewed *in camera* the affidavit of merit, the Court finds that the affidavit of merit **DOES NOT COMPLY** with sections 6853(a)(1) and (c) of title 18 of the Delaware Code. Although the affidavit states that a current copy of the expert's *curriculum vitae* was attached, no copy of the *curriculum vitae* was included in the documents filed under seal. The affidavit of merit complies with sections 6853(a)(1) and (c) of title 18 of the Delaware Code in all other respects.

IT IS SO ORDERED.

/s/ Mary M. Johnston

The Honorable Mary M. Johnston