

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

LIZA NICHOLS,)
)
 Plaintiff,)
)
) C.A. No. N20C-09-166 MMJ
)
 CHRISTIANA CARE SERVICES,)
)
 Defendant.)

Submitted: April 20, 2021

Decided: April 27, 2021

To Determine if the Affidavit of Merit
Complies with 18 *Del. C.* §§ 6853(a)(1) and (c)
and
Plaintiff's Motion for a Continuance

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, an affidavit of merit was filed.¹ Pursuant to 18 *Del. C.* § 6853(d), the Court has determined to perform an *in camera* review of the affidavit to determine compliance with sections 6853(a)(1) and (c). The Court has reviewed the affidavit of merit and the accompanying *curriculum vitae*. The Court finds:

1. The affidavit is signed by a Nursing Assistant.
2. The affidavit is not accompanied by a current *curriculum vitae*.
3. The affidavit sets forth the affiant's opinion that there are reasonable grounds to believe that the applicable standard of care was breached by the named defendant.
4. The affidavit fails to set forth the affiant's opinion that there are reasonable grounds to believe that specifically enumerated breaches proximately caused the injuries claimed in the complaint.
5. The affiant was not licensed to practice medicine as of the date of the affidavit.
6. The affidavit fails to state whether in the 3 years immediately preceding the alleged negligent act, the affiant was engaged in the treatment of patients and/or in the teaching/academic side of medicine.
7. The affidavit does not state that the affiant is board certified.

¹The Affidavit of Merit should have been, but was not, filed under seal. However, the Court has determined to seal the Affidavit of Merit *sua sponte*.

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. Plaintiff's Motion for a continuance is hereby DENIED AS MOOT.

IT IS SO ORDERED.

Mary M. Johnston
The Honorable Mary M. Johnston