

STATE OF MICHIGAN
COURT OF APPEALS

In re Estate of NATASHA DOUGLAS.

MARCIA DOWNS f/k/a MARCIA DOUGLAS,
Personal Representative for the Estate of
NATASHA DOUGLAS,

Plaintiff-Appellant,

v

MARILYN KEEBLER a/k/a MARILYN S.
MORRIS, DANIEL J. VERBURG, DANIEL J.
VERBURG, M.D., P.C., d/b/a BAY VIEW
OBSTETRICS & GYNECOLOGY d/b/a BURNS
CLINIC OBSTETRICS & GYNECOLOGY,
DEBBIE PLUIM a/k/a DEBRA PLUIM, and
JEFFREY W. WILDER,

Defendants,

and

NORTHERN MICHIGAN HOSPITALS, INC.,
d/b/a NORTHERN MICHIGAN HOSPITAL,

Defendant-Appellee.

MARCIA DOWNS f/k/a MARCIA DOUGLAS,
Personal Representative for the Estate of
NATASHA DOUGLAS,

Plaintiff-Appellant,

v

NORTHERN MICHIGAN HOSPITALS, INC.,
d/b/a NORTHERN MICHIGAN HOSPITAL,

Defendant-Appellee.

UNPUBLISHED
July 19, 2012

No. 298330
Emmet Circuit Court
LC No. 03-007681-NH

No. 298723
Emmet Circuit Court
LC No. 04-008040-NH

Before: STEPHENS, P.J., and SAWYER and K. F. KELLY, JJ.

STEPHENS, P.J. (*concurring in part and dissenting in part*).

While I concur with the majority's holding that it was proper to exclude the testimony of Nurse Gayle Glennon and the evidence relating to the policy pertaining to the use of Cyotec, I write separately to address the testimony of Nurse Carolyn Gegor. According to her curriculum vitae, Nurse Gegor is a faculty member at a nursing school, a lecturer at another such school and a consultant for online education courses. MCL 660.2169(1)(b) requires that a legally competent expert should have devoted a majority of her professional time in the year preceding the proffer in either the active clinical practice or the instruction of students in the same health profession of the party against whom they are offering standard of care testimony. Unlike the other barred expert who averred that she spent the majority of her professional time practicing as a nurse midwife, the record is unclear as to whether Nurse Gegor devotes the majority of her professional time as a nurse, instructor of nurses or as a midwife delivering services to patients. Clearly Nurse Gegor possesses the same license as Nurse Plum and if in the year preceding her proffer she devoted the majority of her time to both nursing and teaching nursing, rather than as midwife, she is competent under MCL 600.2169(1)(b)(ii). Given the lack of development of the record on this issue, I would remand to the trial court for a determination.

/s/ Cynthia Diane Stephens