

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**  
**IN AND FOR NEW CASTLE COUNTY**

MICHAEL E. OBERLY	)	
	)	
Plaintiff	)	
	)	C.A. No. 08C-11-232 RRC
v.	)	
	)	
LAWRENCE MCDONALD, M.D.,	)	
CORRECTIONAL MEDICAL	)	
SERVICES, INC. and its JANE DOE	)	
EMPLOYEES	)	
	)	
Defendants	)	
	)	

Submitted: March 16, 2009  
Decided: March 31, 2009

Upon Defendants Correctional Medical Services, Inc. and Lawrence McDonald, M.D.'s "Motion for Review of the Affidavit of Merit Pursuant to 18 *Del. C.* § 6853(a)(1) and (c)."

**ORDER**

Bruce L. Hudson, Esquire, Law Office of Bruce L. Hudson, Wilmington, Delaware, Attorney for Plaintiff.

Daniel A. Griffith, Esquire, Whiteford Taylor Preston, LLC, Wilmington, Delaware, Attorney for Defendants.

COOCH, J.

Upon consideration of Defendant's "Motion for Review of the Affidavit of Merit Pursuant to 18 *Del. C.* § 6853(a)(1) and (c)" it appears to the Court that:

1. 18 *Del. C.* 6853 (a)(1) 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, and stating that there are reasonable grounds to believe that there has been healthcare medical negligence committed by each defendant.

2. In this case, the affidavit of merit was filed under seal, as required. Defendants Correctional Medical Services, Inc. and Lawrence McDonald, M.D., have moved pursuant to 18 *Del. C.* § 6853(d) for 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:

- a. The affidavit is signed by an expert witness.
- b. The affidavit is accompanied by a current *curriculum vitae*.
- c. The expert witness states: "it is my opinion that there are reasonable grounds to believe that the standard of care was breached by the defendants Correctional Medical Services, Inc. and its employees including

Lawrence McDonald, M.D., and that the breach was a proximate cause of injury to the plaintiff as claimed in the complaint.”

d. The expert witness was licensed to practice medicine as of the date of the affidavit.

e. In the 3 years immediately preceding the alleged negligent act, the expert witness was engaged in the treatment of patients in the same or similar field as medicine as Defendant Lawrence McDonald, M.D.

f. The expert is certified in the same or similar fields of medicine as Defendant Lawrence McDonald, M.D. The expert is board certified in internal medicine.

3. Therefore the Court, having reviewed *in camera* the affidavit of merit and accompanying *curriculum vitae* of plaintiff's expert witness, finds that the affidavit of merit complies with sections 6853(a)(1) and (c) of title 18 of the Delaware Code.

**IT IS SO ORDERED.**

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Richard R. Cooch

cc: Prothonotary