

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

NICOLE WILLEY, Individually, and as)
personal representative of the estate of)
MICHAEL WILLEY, and as parent and)
next friend of MARISSA WILLEY, a)
minor,)

Plaintiffs,)

v.)

GLASGOW INTERNAL MEDICINE)
ASSOCIATES, P.A., ANTHONY)
VASILE, D.O., CURT BLACKLOCK,)
D.O., CHRISTIANA CARE HEALTH)
SERVICES, INC., a Delaware)
Corporation,)

Defendants.)

C.A. NO.: N17C-11-185 AML

JURY TRIAL OF 12 DEMANDED

Submitted: February 19, 2018

Decided: February 26, 2018

ORDER

Upon Review of the Affidavit of Merit – Accepted

On February 19, 2018, Defendant Christiana Care Health System (“CCHS”) moved to have the Court review Plaintiffs’ affidavit of merit, *in camera*, to determine whether it complies with 18 *Del. C.* § 6853(a)(1) and (c). Specifically, CCHS asks the Court to determine whether the affidavit of merit:

- a) Is signed by an expert witness;
- b) Is accompanied by a *curriculum vitae* for each expert;

- c) Includes an opinion that the standard of care was breached by CCHS “rather than vague references or lumping of parties with different specialties that do not conform to the statute”;¹
- d) States an opinion that any breach attributed to CCHS was a proximate cause of injuries alleged in the complaint;
- e) Includes a *curriculum vitae* that establishes that each expert was licensed to practice medicine as of the date of the affidavit;
- f) Includes a *curriculum vitae* that establishes that the expert, for the three years preceding the negligent act, has been engaged in the treatment of patients and/or in the teaching/academic side of medicine in the same or similar field of medicine as CCHS, “namely medicine, surgery[,] and nursing.”²

In Delaware, a healthcare negligence lawsuit must be filed with an affidavit of merit, signed by an expert, and accompanied by the expert’s current *curriculum vitae*.³ The expert must be licensed to practice medicine as of the affidavit’s date.⁴ The expert must have engaged in the same or similar field as the defendant in the three years immediately preceding the alleged negligence.⁵ The affidavit must state

¹ Def.’s Mot. Review Aff. ¶ 4.

² *Id.*

³ *Id.* § 6853(a)(1).

⁴ *Id.* § 6853(c).

⁵ *Id.*

that reasonable grounds exist to believe the applicable standard of care was breached by the named defendants and that the breach proximately caused the plaintiff's injury.⁶ The statute's requirements are minimal. Accordingly, an affidavit of merit tracking the statutory language complies with the statute.⁷

After an *in camera* review, the Court finds the affidavit:

- a) Is signed by an expert witness;
- b) Is accompanied by a *curriculum vitae* for each expert;
- c) Includes an opinion that the applicable standard of care was breached by the named defendants;
- d) States an opinion that the breach was a proximate cause of injuries alleged in the complaint;
- e) Includes a *curriculum vitae* that establishes that each expert was licensed to practice medicine as of the date of the affidavit;
- f) Includes a *curriculum vitae* that establishes that the expert, for the three years preceding the negligent act, has been engaged in the treatment of patients and/or in the teaching/academic side of medicine in the same or similar field of medicine as CCHS.

⁶ *Id.*

⁷ See *Dishmon v. Fucci*, 32 A.3d 338, 342 (Del. 2011) (“In order to satisfy the *prima facie* burden, an Affidavit of Merit must only contain an expert's sworn statement that medical negligence occurred, along with confirmation that he or she is qualified to proffer a medical opinion.”).

Considering the above, the Court finds that the affidavit of merit complies with 18 *Del. C.* § 6853(a) and (c) as to CCHS.

IT IS SO ORDERED.


Abigail M. LeGrow, Judge

Original to Prothonotary

cc: Stephen J. Milewski, Esquire
Joshua Meyeroff, Esquire
Gregory S. McKee, Esquire
Katherine J. Sullivan, Esquire
Timothy E. Lengkeek, Esquire