

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
AT LEXINGTON

LARRY BOWLES and AUSTIN BOWLES,  
*Co-Administrators of the Estate of  
Shannon Bowles, deceased, and Next  
Friends of his minor children, T.B.B.,  
N.H.S.B., C.D.B., M.W.B., and B.W.,*

Plaintiff,s

v.

BOURBON COUNTY, KENTUCKY; GARY  
WILSON, Individually; SHEILA GANT,  
Individually; ADVANCED  
CORRECTIONAL HEALTHCARE, INC.;  
MATTHEW P. Johnston, ARNP; TRENA  
PRESTON, ARNP, Individually; KELLY  
COX-LYNN, LPN, Individually; AMIE  
LAYTART, AMIE KEARNS, JUSTIN  
HUGHES, BRITTANY SIDNEY, and  
SONJA FRENCH, Individually

Defendants.

CIVIL NO. 5:17-CV-434-KKC

MEMORANDUM OPINION AND  
ORDER

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This matter is before the Court on a motion to dismiss filed by Advanced Correctional Healthcare, Inc., Matthew P. Johnson, ARNP, Trena Preston, ARNP, and Kelly Cox-Lynn, LPN. (DE 12). The Defendants seek dismissal pursuant to the Kentucky Medical Review Panel Act, Ky. Rev. Stat. § 216C.005 *et seq.* The Act requires plaintiffs who wish to file a medical malpractice suit against a health care provider to first file a complaint for review by a medical review panel before they may commence a court action. Ky. Rev. Stat. § 216C.020(1). Plaintiffs filed a complaint for panel review in compliance with the statute on September 21, 2017. On October 30, 2017, however, the Franklin Circuit Court permanently

enjoined enforcement of Ky. Rev. Stat. § 216C, finding it violated the Kentucky constitution. Opinion & Order, *Claycomb v. Commonwealth, Cabinet for Health and Family Servs.* No. 17-CV-708 (Franklin Cir. Ct. Div. I Oct. 30, 2017). The next day, Plaintiffs filed this action. (Compl., DE 1.) On November 9, 2017, the Kentucky Court of Appeals stayed the circuit court's injunction and therefore the Medical Review Panel Act is currently in effect in the Commonwealth. Order Granting Emergency Relief, *Commonwealth Cabinet for Health & Family Services v. Claycomb*, No. 2017-CA-001770-MR (Ky. Ct. App. Nov. 9, 2017). The circuit court's opinion is on expedited appeal to the Kentucky Supreme Court. Order Granting Transfer of Appeal & Setting Expedite Briefing Schedule, No. 17-CI-00708 (Ky. Dec. 6, 2017).

Defendants seek dismissal of the claims against them based on the Medical Review Panel Act or, in the alternative, a stay of this matter pending resolution of the decision of the Kentucky Supreme Court on the constitutionality of the Act. The Plaintiffs have stated they have no objection to a stay. Accordingly, the Court, being duly advised, **HEREBY ORDERS** that this matter is **STAYED** with respect to Plaintiffs' claims against Advanced Correctional Healthcare, Inc., Matthew P. Johnson, ARNP, Trena Preston, ARNP, and Kelly Cox-Lynn, LPN. The parties should promptly inform the Court of the decision by the Kentucky Supreme Court on the constitutionality of the Medical Review Panel Act.

Dated May 10, 2018.



*Karen K. Caldwell*

KAREN K. CALDWELL, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY