

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

JOSHUA KOBER,)	
)	
Plaintiff,)	
v.)	C.A. No.: N25C-12-059 FJJ
)	
CHRISTIANA CARE HEALTH)	
SERVICES, INC. d/b/a CHRISTIANA)	
HOSPITAL and MARY BARRISH,)	
)	
Defendants.)	

ORDER REGARDING AFFIDAVIT OF MERIT

This 25th day of February, 2026, the Court has reviewed the Complaint and *in camera* Plaintiff's Affidavits of Merit pursuant to 18 *Del.C.* §6853(a)(3) and 6853(d). Having done so, the Court finds the following:

1. Plaintiff alleges in his complaint that a foreign object was unintentionally left within the body of the patient during surgery. The complaint further alleges that what was left in his body was a portion of an IV catheter. It is unclear to the Court whether this situation falls under the exception of 18 *Del.C.* §6853(b). Fortunately, and despite the allegations in the complaint of no need for an Affidavit of Merit, Plaintiff has provided two Affidavits of Merit.
2. Two expert witnesses have signed Affidavits of Merit.
3. Each affidavit is accompanied by a current *curriculum vitae* of the expert witness.
4. The first expert witness who signed the Affidavit represents she has a doctorate in Nursing.

5. The nursing expert Affidavit indicates the expert witness was licensed to practice nursing as of the date of the Affidavit.
6. The nursing Affidavit indicates the expert witness has been engaged in the treatment of patients and/or in the academic side of the fields of Nursing for at least three years preceding the acts alleged in the Complaint.
7. The Affidavit contains an opinion that there was a breach of the standard of care and that the breach was the proximate cause of the injuries alleged in the Complaint.
8. The Nursing Affidavit complies with the requirements of 18 *Del.C.* §§6853(a)(1) and 6853(c) as to all Defendants named in the Complaint.¹
9. The second affidavit is authored by a clinical and consulting Psychologist who has certified that he was licensed to practice clinical and consulting Psychology as of the date of the Affidavit.
10. The Psychologist Affidavit indicates the expert witness has been engaged in the treatment of patients and/or the academic side of the field of clinical and consulting psychology for at least three years preceding the acts alleged in the Complaint.
11. The Affidavit contains an opinion that the alleged breaches of the standard of care were a proximate cause of the emotional injuries alleged. This Affidavit complies with the requirements of 18 *Del.C.* §§6853(a)(1) and 6853(c) as to all Defendants as to the issue of causation.

IT IS SO ORDERED.

/s/ Francis J. Jones, Jr.
Francis J. Jones Jr., Judge

cc: File & ServeXpress

¹ *Dougherty v. Horizon House, Inc.*, 2008 WL 3488532 (Del. Super. 2008).