IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

SUSAN MOTLEY,	:	
Plaintiff,	:	C.A. No: K26C-08-009 JJC
v.	:	
BAYHEALTH MEDICAL CENTER, INC. and COMPLETE CARE AT SILVER LAKE, LLC,	:	
Defendants.	:	

Submitted: November 19, 2026
Decided: November 23, 2026

ORDER

Defendant Bayhealth Medical Center, Inc. ("Bayhealth") moves for an *in camera* review of an affidavit of merit pursuant to 18 *Del. C.* § 6853(d). Plaintiff Susan Motley asserts medical negligence claims against Defendants Bayhealth and Complete Care at Silver Lake, LLC ("Complete Care"). She alleges that Bayhealth and Complete Care are both liable for causing her harm because she developed a pressure ulcer while in their care. More specifically, Plaintiff alleges that Defendants and their employees were on notice of Plaintiff's heightened risk of developing pressure ulcers and then failed to prevent, monitor, and care for the developing bed sore.

Delaware law requires plaintiffs in a medical negligence suit to file an accompanying affidavit of merit that addresses each defendant. The purpose of the

requirement is prophylactic and is designed to limit frivolous medical negligence claims.[1] To that end, the affidavit must be signed by an expert witness, meet certain statutory requirements, and include an expert's *curriculum vitae* as an attachment.[2] In general, if the affidavit tracks the language provided in the statute, it complies.[3] As such, the requirements for an affidavit of merit are "purposefully minimal".[4] The statute requires the affiant to recite, *inter alia*, that the expert has "reasonable grounds to believe that there has been health-care medical negligence committed by each defendant."[5]

Following *in camera* review of the affidavit, the Court finds:

(1) The expert signed the affidavit;

(2) The expert attached a *curriculum vitae*;

(3) The expert is currently licensed to practice medicine;

(4) The expert is Board certified in internal medicine;

(5) According to the expert's affidavit with an accompanying CV, the expert has treated patients in the same or similar field as both defendants over the three years immediately preceding the allegedly negligent conduct. Namely, the affidavit and *curriculum vitae* reference the expert's experience and board certification in the private practice of internal medicine for more than the prior three years; and

(6) The expert's affidavit recites that reasonable grounds exist to believe that both defendants, including Bayhealth, committed medical negligence during their treatment of Plaintiff, and as a result, proximately caused the injuries that Plaintiff alleges in her complaint.

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[1] *Dishmon v. Fucci*, 32 A.3d 338, 342 (Del. 2011).
[2] 18 *Del. C.* § 6853(a)(1).
[3] *Flamer v. Nanticoke Mem'l Hosp.*, 2020 WL 113911, at *1 (Del. Super. Jan 9, 2020) (citing *Dishmon*, 32 A.3d at 342).
[4] *Dishmon*, 32 A.3d at 342.
[5] 18 *Del. C.* § 6853(a)(1).

For these reasons, the affidavit of merit complies with the statutory requirements provided in 18 *Del. C.* §§ 6853(a)(1) and (c). Accordingly, it is **COMPLIANT** as to Bayhealth.

IT IS SO ORDERED.

/s/ Jeffrey J Clark
Resident Judge

Via File & Serve Express