

Article - Courts and Judicial Proceedings

[Previous][Next]

§3-2A-06D.

(a) (1) This section applies only to an initial complaint filed on or after January 1, 2005, for which a certificate of a qualified expert is required to be filed in accordance with § 3-2A-04 of this subtitle.

(2) This section does not apply if the defendant admits liability.

(b) (1) Within 15 days after the date that discovery is required to be completed, a party shall file with the court a supplemental certificate of a qualified expert, for each defendant, that attests to:

(i) The certifying expert's basis for alleging what is the specific standard of care;

(ii) The certifying expert's qualifications to testify to the specific standard of care;

(iii) The specific standard of care;

(iv) For the plaintiff:

1. The specific injury complained of;

2. How the specific standard of care was breached;

3. What specifically the defendant should have done to meet the specific standard of care; and

4. The inference that the breach of the standard of care proximately caused the plaintiff's injury; and

(v) For the defendant:

1. How the defendant complied with the specific standard of care;

2. What the defendant did to meet the specific standard of care; and

3. If applicable, that the breach of the standard of care did not proximately cause the plaintiff's injury.

(2) An extension of the time allowed for filing a supplemental certificate under this section shall be granted for good cause shown.

(3) The facts required to be included in the supplemental certificate of a qualified expert shall be considered necessary to show entitlement to relief sought by a plaintiff or to raise a defense by a defendant.

(c) Subject to the provisions of this section:

(1) If a plaintiff fails to file a supplemental certificate of a qualified expert for a defendant, on motion of the defendant the court may dismiss, without prejudice, the action as to that defendant; or

(2) If the defendant fails to file a supplemental certificate of a qualified expert, on motion of the plaintiff the court may adjudicate in favor of the plaintiff on the issue of liability as to that defendant.

(d) (1) The Maryland Rules apply to filing and serving a copy of a certificate required under this section and in motions relating to a violation of this section.

(2) Nothing contained in this section prohibits or limits a party from moving for summary judgment in accordance with the Maryland Rules.

(e) For purposes of the certification requirements of this section:

(1) A party may not serve as a party's expert; and

(2) The certificate may not be signed by:

(i) A party;

(ii) An employee or partner of a party; or

(iii) An employee or stockholder of any professional corporation of which the party is a stockholder.

(f) (1) The clerk of the court shall forward to the Department of Health and Mental Hygiene copies of the certificates filed under this section.

(2) In the case of a complaint against a physician, the Department of Health and Mental Hygiene shall forward to the State Board of Physicians copies of the supplemental certificate of a qualified expert filed under this section.

[Previous][Next]