



Alerts

Standard of Care Opinions Offered Outside an Expert's Specialty Barred

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Health Care Alert

This alert was featured in Hinshaw's Annual Guide to Illinois Medical Malpractice Decisions: 2020 Edition

Issue

Can a physician offer standard of care opinions outside of his or her area of expertise?

Thomas Ittersagen v. Advocate Health and Hospitals Corporation d/b/a Advocate Medical Group, et al.; Case No: 2020 IL App (1st) 190778

Case Summary

Plaintiff alleged medical negligence against defendants for failure to provide appropriate treatment and diagnose him with sepsis. As a result, plaintiff claimed that he developed toxic shock syndrome requiring below the knee amputation of both legs. At trial, the jury found in favor of defendants.

On appeal, plaintiff argued that the trial court committed reversible error by barring his critical care expert from testifying to the standard of care for diagnosing sepsis. The trial court had barred this testimony because the expert was not the same specialty as the defendant physician, who was board certified in family medicine. The appellate court commented that whether an "expert is qualified to testify is not dependent on whether he is a member of the same specialty or subspecialty as the defendant, but rather, whether the allegations of negligence concern matters within his knowledge and observation." Despite this, the court found that there was no harm done in preventing the expert critical care physician from testifying as to the standard of care given that plaintiff disclosed a separate family medicine physician witness who testified extensively as to the standard of care for diagnosing and treating sepsis.

Takeaways

If an expert intends to offer standard of care opinions outside his or her specialty, the 213 expert disclosure should establish how the expert is familiar with the methods, procedures, and treatments at issue. Furthermore, the 213 report should disclose with specificity that the expert will offer testimony on the standard of care for a given specialty.

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