

Does Your Expert Measure Up? Evaluating Expert Qualifications In New Jersey Medical Malpractice Cases

May 8, 2014 | by Einhorn Barbarito

Choosing the right expert in a medical malpractice case may often mean the difference between winning and losing, especially in New Jersey.

For those of you who are otherwise unaware, medical malpractice actions arise from those unfortunate incidents where a patient is negligently injured at the hands of his/her own doctor. Under such circumstances, the injured party may have a right to seek compensation for his/her injuries against the negligent doctor through a medical malpractice lawsuit. In order to be successful, however, the injured party must prove, among other things, that his/her doctor deviated from an acceptable standard of care. Simply put, the injured party must show the negligent doctor acted unlike a reasonable doctor under similar conditions. Since it is the expert who comments upon the standard of care/conduct of the negligent physician, choosing the right expert is crucial in medical malpractice cases.

In New Jersey, any medical expert offered by an injured party to comment on the standard of care applicable to an alleged negligent doctor must possess certain qualifications, above and beyond those required by the Rules of Evidence for experts in other types of civil matters. In particular, [New Jersey's Patients First Act](#), [N.J.S.A. 2A:53A-41](#), requires experts testifying on behalf of an injured patient to be "equivalently-qualified" to that of the defendant-physician. This means that the proposed expert must be capable of testifying intelligibly upon the condition and/or treatment at issue. The act ultimately ensures a level playing field among expert and defendant-physician. For example, an injured patient is prohibited from introducing expert testimony by a general practitioner in order to comment upon the standard of care applicable to a board-certified cardiologist, where the treatment at issue was confined within the specialty of cardiology. Under this scenario, the appropriate expert to be offered by the injured party would be a board-certified cardiologist.

With this in mind and by way of summary, a medical expert testifying on behalf of an injured patient must meet the following criteria as defined by the Patients First Act:

- Licensed physician in the United States;
- Where the defendant-physician is a specialist (i.e., cardiologist) and the treatment at issue concerns that specialty, the expert must be equally specialized in the same field of medicine at the time of the alleged injury; and
- If the defendant-physician is board-certified, the expert must be board-certified; and
 - Credentialed by a hospital to provide the treatment at issue; or
 - Within the preceding year of the date of injury, must have devoted the majority of his/her professional time to either:
 - Active clinical practice; or
 - Teaching students within same profession/specialty of defendant-physician.

Medical malpractice cases are comprised of highly complicated issues. Choosing the right medical expert requires a deep understanding of the intricacies and nuances of the law, which could mean all the difference in winning your case. If you have been injured by a physician during the course of your medical treatment and are concerned about your rights and options, please contact a qualified civil trial attorney experienced in handling these matters.