

Post Operative Activities Key to Determining ‘One Most Relevant Specialty’ for Expert Witness Qualification

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The Michigan Court of Appeals recently held in *McIntyre v Mohan*, (Nos. 274462, 274526, rel'd March 13, 2008) (unpublished), that for purposes of identifying an appropriate plaintiff's expert, the “one most relevant specialty” is determined from the time of the alleged malpractice and not solely based on the defendant's board certifications.

Often times, defendants argue that the expertise applicable to a surgical procedure is also involved with post operative care. The court apparently rejected this argument and focused solely on the post operative treatment without regard to the core surgical competencies.

The court ruled that the defendant, Dr. Mohan, was utilizing his cardiology skills during the alleged malpractice, the one most relevant specialty, and not his interventional skills, despite being board certified in both. Therefore, the plaintiff's expert, Dr. Wohlgelernter, board certified in internal medicine with a subspecialty in cardiology and interventional cardiology, was qualified because he spent the majority of his professional time practicing cardiology.

The alleged malpractice involved a failure by Dr. Mohan and another defendant to properly address post operative complications from a left heart catheterization, coronary angiography and percutaneous transluminal angioplasty with stent placement of the left interior descending (LAD) artery. The plaintiff did not allege any malpractice occurred during the operation by Dr. Mohan.

In determining what the one most relevant specialty was, the appellate court stated:

The important focus for comparing or matching of specialties is based on the actual area of medicine being performed at the time of the alleged malpractice. The court must look to the actual area of practice the plaintiff challenges in order to determine whether the proffered expert has the capacity to offer an opinion regarding the standard of care.

In deciding the “one most relevant specialty” was cardiology, the appellate court looked to the American Board of Internal Medicine guidelines for a subspecialty certification in cardiovascular disease and interventional cardiology. Based on the board's definitions and Dr. Mohan's qualifications, the court stated the practice of cardiology involves a great deal of overlap with interventional cardiology.

POST OPERATIVE ACTIVITIES KEY TO DETERMINING 'ONE MOST RELEVANT SPECIALTY' FOR EXPERT WITNESS QUALIFICATION Cont.

According to the court, it was clear that Dr. Mohan was practicing interventional cardiology when he performed a left heart catheterization coronary angiography and percutaneous transluminal angioplasty with stent placement of the LAD artery on the decedent. However, the court looked at the time of the alleged malpractice, which was during the post operative care, and found that post-surgery, Dr. Mohan was practicing cardiology.

The court's conclusion was further supported by the fact the other defendant, a cardiologist, provided the same care and treatment that Dr. Mohan, an interventional and general cardiologist, provided to the decedent immediately after the surgical procedures ended.

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