

Affidavit of Merit Requirement for Medical Malpractice Cases

Purpose of the Affidavit of Merit

An Affidavit of Merit requires a qualified medical expert to review the facts and certify that a malpractice claim has a legitimate medical basis before a lawsuit is filed. This safeguard helps ensure that medically supported claims enter the court system.

1. Deters Frivolous Lawsuits

- Prevents claims filed without medical support.
- Discourages “fishing expedition” lawsuits filed solely to obtain discovery.
- Ensures malpractice cases are grounded in actual negligence rather than speculation.

2. Protects Judicial Resources

- Medical malpractice cases are among the most complex and time-consuming matters on the docket.
- Early expert review screens out unsupported cases and reduces unnecessary motions, hearings, and discovery disputes.
- Allows courts to focus on cases involving genuine medical issues.

3. Reduces Costs for Providers, Hospitals, and the Government

- Defending baseless claims drains public resources and can increase malpractice insurance costs.
- Early screening helps prevent prolonged litigation over claims that should not have been filed.
- Reduces administrative burdens on healthcare institutions.

4. Aligns the Virgin Islands with National Best Practices

- Most U.S. jurisdictions require an Affidavit of Merit or expert affidavit.
- Adopting this requirement modernizes the territory’s malpractice framework and aligns it with widely accepted standards.

5. Improves the Quality of Cases Filed

- Encourages plaintiffs to consult medical experts early.
- Clarifies liability and causation issues from the outset.
- Promotes more realistic settlement discussions and more efficient case management.

6. Protects Healthcare Providers and Supports Workforce Stability

- Reducing meritless litigation helps protect provider morale and reputation.
- A more stable malpractice environment can support recruitment and retention of qualified physicians.
- Promotes a stable, reliable healthcare system for Virgin Islands residents.

7. Encourages Responsible Legal Practice

- Requires attorneys to verify the medical basis of a claim before filing.
- Promotes professionalism and reduces sanctionable conduct.
- Helps plaintiffs receive accurate guidance before entering litigation.

Conclusion

The Virgin Islands Department of Justice supports the inclusion of an Affidavit of Merit requirement in the territory’s medical malpractice laws. An Affidavit of Merit requirement is a balanced and effective addition that protects patients, providers, and the judicial system. It deters frivolous lawsuits, reduces costs, improves case quality, and supports a stable healthcare environment. The Legislature has an opportunity to modernize the Virgin Islands medical malpractice statute by adopting a safeguard used across the nation.