RENDERED: OCTOBER 30, 2026; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2025-CA-1080-MR

CHRISTINA SWOFFORD — APPELLANT

v.

APPEAL FROM KENTON CIRCUIT COURT
HONORABLE PATRICIA M. SUMME, JUDGE
ACTION NO. 22-CI-00916

OPTION CARE ENTERPRISES, INC. — APPELLEE

OPINION
AFFIRMING

** ** ** ** **

BEFORE: CETRULO, MCNEILL, AND TAYLOR, JUDGES.

TAYLOR, JUDGE: Christina Swofford brings this appeal from January 3, 2025, and January 31, 2025, orders of the Kenton Circuit Court dismissing her medical malpractice claim against Option Care Enterprises Inc. (Option Care). We affirm.

Background

Christina Swofford was hospitalized at Saint Elizabeth Medical Center (St. Elizabeth), and upon discharge, she was given an order for a one-time

dose of an intravenous antibiotic (Dalbavancin) as an outpatient. On August 6, 2021, Swofford received the intravenous treatment at an outpatient facility (Option Care). At Option Care, it appears a medical provider placed the intravenous line in Swofford's right hand, and Swofford received the intravenous antibiotic. Approximately ten minutes after the intravenous treatment, Swofford claims she started experiencing severe pain and color changes in the right hand. Thereupon, Swofford presented to the emergency room at St. Elizabeth. According to Swofford, it was discovered the intravenous treatment was mistakenly placed in an artery instead of a vein by Option Care, thereby causing an arterial occlusion. As a result, Swofford maintained she endured multiple surgeries and the eventual amputation of her right ring finger and fingertips.

Swofford filed a complaint against, *inter alios*, Option Care and Jane Doe on June 22, 2022. Therein, Swofford alleged Jane Doe was an employee of Option Care and negligently placed the intravenous line into her artery thereby causing an arterial occlusion. Swofford claimed she underwent multiple surgeries and the eventual amputation of her right ring finger and fingertips. Swofford sought compensatory damages, including pain and suffering. Both parties engaged in discovery.

On October 16, 2024, Option Care filed a motion for summary judgment. Therein, Option Care alleged Swofford failed to identify an expert

witness to testify regarding causation. Option Care pointed out that Swofford only identified a nurse (Gayle Coulter) as an expert witness. Option Care argued that Coulter was not qualified to testify as to medical causation and that Swofford failed to set forth any expert evidence showing that the alleged misplacement of the intravenous line into an artery caused Swofford's injuries. Consequently, Option Care believed it was entitled to judgment as a matter of law. Swofford filed a response and maintained Coulter was qualified as an expert witness even though she was a nurse and cited her affidavit.

By order entered January 3, 2025, the circuit court denied Option Care's motion for summary judgment. The circuit court concluded:

> Here the affidavit of Coulter does provide her background, education, experience, and credentials; her knowledge of the standard of care relating to the practice of vascular access by nurses, phlebotomists, and other medical staff as applicable to the circumstances of this case; and her review of plaintiff's records and conclusion as to breach of standard of care. The action complained of here was performed by such medical staff, not a medical doctor, and therefore the testimony of a well-qualified nurse is sufficient to provide evidence of the standard of care and breach thereof in this case.

January 3, 2025, order at 2.

Option Care then filed a motion to reconsider. In the motion, Option Care pointed out that Coulter may be qualified to render an expert opinion on the standard of care, but argued she was not qualified to render an expert opinion on

medical causation. Option Care argued that Coulter possessed no expertise to opine that the misplacement of the intravenous line into the artery caused Swofford to suffer her alleged injuries. Option Care maintained Swofford failed to offer adequate expert testimony upon the issue of causation, thus entitling it to summary judgment.

On January 31, 2025, the circuit court granted the motion to reconsider and entered summary judgment dismissing Swofford's claim of medical malpractice against Option Care. In that order, the circuit court recognized that Coulter was not qualified to render an expert opinion upon the issue of causation:

> While in some cases it may be that a nurse is sufficiently qualified to testify as to causation, the court now finds that whether the breach of the standard of care in the insertion of the i.v. was in fact probable – and not merely possible – proximate cause of the blood clot and resulting treatments including the amputation of the distal phalanxes of the third and fourth fingers of her right hand, given the complexity of her medical history and all accompanying circumstances in this case, requires a medical doctor to provide the full explanation necessary to support a finding of legal causation.

January 31, 2025, order at 2. As Swofford failed to offer a physician's expert opinion upon the issue of causation, the circuit court rendered summary judgment in favor of Option Care. This appeal follows.

Standard of Review

In Kentucky, summary judgment is proper where there exists no genuine issue of material fact and movant is entitled to judgment as a matter of law. Kentucky Rules of Civil Procedure (CR) 56.03; *Steelvest Inc. v. Scansteel Serv. Ctr., Inc.*, 807 S.W.2d 476, 480 (Ky. 1991). All facts and inferences therefrom are viewed in a light most favorable to the nonmoving party. *Id.* And, our review is without deference to any conclusions of law by the trial court. *Hammons v. Hammons*, 327 S.W.3d 444, 448 (Ky. 2010). Accordingly, our review proceeds *de novo. Ashland Hosp. Corp. v. Darwin Select Ins. Co.*, 664 S.W.3d 509, 516 (Ky. 2022).

Analysis

Swofford contends that the circuit court erred by rendering summary judgment dismissing her medical malpractice claim against Option Care. Swofford argues a nurse can testify as to causation in a medical malpractice action if the nurse possesses the requisite knowledge and experience to do so. Swofford asserts Coulter was qualified to render an opinion on causation based upon her affidavit filed of record. Swofford maintains a material issue of fact was presented as to causation based upon Coulter's expert opinion, and summary judgment was improper.

In a medical malpractice action, a plaintiff must prove the standard of care of the medical professional, the standard of care was breached, and such breach was the proximate cause of plaintiff's injury. *Diagnostic X-Ray Physicians, PSC, v. Lloyd*, ___S.W.3d____, Appeal Nos. 2024-SC-0216-DG & 2024-SC-0224-DG, 2026 WL 1839842, *8 (Ky. Jun. 25, 2026); *Saint Elizabeth Med. Ctr., Inc. v. Arnsperger*, 686 S.W.3d 132, 138 (Ky. 2024) (quoting *Reams v. Stutler*, 642 S.W.2d 586, 588 (Ky. 1982)). Generally, expert testimony is required to prove the standard of care of the medical professional, a breach of the standard of care, and such breach was the proximate cause of plaintiff's injury. *Ashland Hospital Corp. v. Lewis*, 581 S.W.3d 572, 577-78 (Ky. 2019). There are two exceptions to this general rule – where the defendant makes admissions "that make his negligence apparent" and where the negligence is apparent to laymen with common knowledge. *Id.* at 578 (quoting *Blankenship v. Collier*, 302 S.W.2d 665, 670 (Ky. 2010)). Neither is applicable in this case.

In exercising its gatekeeper authority in relation to expert opinion testimony, the circuit court is guided by Kentucky Rules of Evidence (KRE) 702, which provides:

> If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion

> or otherwise, if the proponent demonstrates to the court that it is more likely than not that:
>
> (1) The testimony is based upon sufficient facts or data;
>
> (2) The testimony is the product of reliable principles and methods; and
>
> (3) The witness' opinion reflects a reliable application of the principles and methods to the facts of the case.

And the Kentucky Supreme Court has instructed that expert opinion is admissible where:

> (1) the witness is qualified to render an opinion on the subject matter, (2) the subject matter satisfies the requirements of *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 113 S. Ct. 2786, 125 L. Ed. 2d 469 (1993), (3) the subject matter satisfies the test of relevancy set forth in KRE 401, subject to the balancing of probativeness against prejudice required by KRE 403, and (4) the opinion will assist the trier of fact per KRE 702.

Stringer v. Commonwealth, 956 S.W.2d 883, 891 (Ky. 1997). The Kentucky Supreme Court has emphasized that the qualification of an expert witness "turns on whether the proposed witness's special knowledge, skill, experience, training, or education will assist the jury." *Tapp v. Owensboro Med. Health Sys., Inc.*, 282 S.W.3d 336, 341 (Ky. App. 2009). In medical malpractice cases, a physician ordinarily provides the necessary expert opinion testimony. However, Kentucky has not adopted a bright line rule as to the qualification of a nonphysician to express an expert opinion in a medical malpractice claim. Rather, in a medical

malpractice claim, the qualification of a nonphysician as an expert turns upon the factors in KRE 702 and specifically whether the nonphysician possesses specialized training, experience, and knowledge to express an expert opinion relevant to the malpractice action. *Kentucky Guardianship Adm'rs, LLC v. Baptist Healthcare Sys. Inc*., 635 S.W.3d 14, 24-26 (Ky. 2021); *Savage v. Three Rivers Med. Ctr.*, 390 S.W.3d 104, 116-17 (Ky. 2012). We review the circuit court's decision upon the qualification of an expert witness for abuse of discretion. *Tapp*, 282 S.W.3d at 339.

In this case, Swofford submitted the affidavit of Coulter; therein, Coulter stated that she was a Registered Nurse licensed to practice in Florida. Coulter set forth that she had obtained a Certified Registered Nurse Infusion credential and was Vascular Board Certified. Coulter averred she owned Infusion Knowledge Inc. and provides education and consultation concerning infusion therapy. Coulter also stated she had presented seminars concerning venipuncture techniques for phlebotomy and peripheral intravenous access. Coulter further stated that she had routinely performed phlebotomy on patients in hospitals and clinics.

From the above, it is clear Coulter was highly experienced and quite knowledgeable as to performing intravenous treatment upon patients and was qualified to opine upon the standard of care and breach thereof concerning the

placement of an intravenous line for antibiotic therapy. Thus, Coulter could properly express an expert opinion upon the applicable standard of care as to whether placement of the intravenous line into Swofford's artery deviated from the standard of care. However, on the issue of medical causation for Swofford's injuries, Coulter was not qualified to render an expert opinion.

While Coulter possessed specialized knowledge and experience as to performing intravenous therapy, Coulter possessed no such knowledge or experience as to diagnosing or treating injuries caused by misplacement of the intravenous line into an artery. *See Kentucky Guardianship Adm'rs, LLC*, 635 S.W.3d at 24-26; *Savage*, 390 S.W.3d at 116-17. Based upon her affidavit, Coulter simply was not qualified to express an expert opinion upon whether the misplacement of the intravenous line into Swofford's artery proximately caused the claimed injuries, including the amputation of her finger and fingertips. *See Kentucky Guardianship Adm'rs, LLC*, 635 S.W.3d at 24-26; *Savage*, 390 S.W.3d at 116-17. Therefore, we conclude that the circuit court did not abuse its discretion by concluding that Coulter was unqualified to express an expert opinion upon the issue of medical causation.

As Swofford failed to offer any expert opinion upon the issue of causation, we are of the opinion the circuit court properly rendered summary

judgment dismissing Swofford's medical malpractice claim against Option Care and thereby affirm the same.

ALL CONCUR.

BRIEF FOR APPELLANT:	BRIEF FOR APPELLEE:
Alan Statman Cincinnati, Ohio	Megan P. Keane Kylie E. Menish Louisville, Kentucky