

### **Rule 1042.3. Certificate of Merit**

(a) In any action based upon an allegation that a licensed professional deviated from an acceptable professional standard, the attorney for the plaintiff, or the plaintiff if not represented, shall file with the complaint or within sixty days after the filing of the complaint, a certificate of merit signed by the attorney or party that either

(1) an appropriate licensed professional has supplied a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm, or

NOTE: It is not required that the "appropriate licensed professional" who supplies the necessary statement in support of a certificate of merit required by subdivision (a)(1) be the same person who will actually testify at trial. It is required, however, that the "appropriate licensed professional" who supplies such a statement be an expert with sufficient education, training, knowledge and experience to provide credible, competent testimony, or stated another way, the expert who supplies the statement must have qualifications such that the trial court would find them sufficient to allow that expert to testify at trial. For example, in a medical professional liability action against a physician, the expert who provides the statement in support of a certificate of merit should meet the qualifications set forth in Section 512 of the Medical Care Availability and Reduction of Error (Mcare) Act, 40 P.S. § 1303.512.

(2) the claim that the defendant deviated from an acceptable professional standard is based solely on allegations that other licensed

professionals for whom this defendant is responsible deviated from an acceptable professional standard, or

NOTE: A certificate of merit, based on the statement of an appropriate licensed professional required by subdivision (a)(1), must be filed as to the other licensed professionals for whom the defendant is responsible. The statement is not required to identify the specific licensed professionals who deviated from an acceptable standard of care.

(3) expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim.

NOTE: In the event that the attorney certifies under subdivision (a)(3) that an expert is unnecessary for prosecution of the claim, in the absence of exceptional circumstances the attorney is bound by the certification and, subsequently, the trial court shall preclude the plaintiff from presenting testimony by an expert on the questions of standard of care and causation.

(b)(1) A separate certificate of merit shall be filed as to each licensed professional against whom a claim is asserted.

(2) If a complaint raises claims under both subdivisions (a)(1) and (a)(2) against the same defendant, the attorney for the plaintiff, or the plaintiff if not represented, shall file

(i) a separate certificate of merit as to each claim raised, or

(ii) a single certificate of merit stating that claims are raised under both subdivisions (a)(1) and (a)(2).

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**Rule 1042.8. Certificate of Merit. Form**

The certificate required by Rule 1042.3(a) shall be substantially in the following form:

**(Caption)**

**Certificate of Merit as to \_\_\_\_\_**  
(Name of Defendant)

I, \_\_\_\_\_, certify that:  
(Attorney or Party)

an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this defendant in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

AND/OR

the claim that this defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm;

OR

expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against this defendant.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Attorney or Party)

### **Explanatory Comment**

Rules 1042.3(b) and 1042.8 which govern certificates of merit required in professional liability actions have been amended to clarify their application in cases in which multiple claims are asserted against the same defendant.

New subdivision (b)(2) has been added to Rule 1042.3 advising the plaintiff who files a complaint raising claims against the same defendant under both subdivisions (a)(1) and (a)(2) that either (i) a separate certificate of merit must be filed as to each claim raised, or (ii) a single certificate of merit must be filed indicating stating that claims are raised under both subdivisions (a)(1) and (a)(2). The form of the certificate of merit set forth in Rule 1042.8 also has been amended by inserting the words “AND/OR” between paragraphs (1) and (2) which correspond to subdivisions (a)(1) and (a)(2) of Rule 1042.3.

By the Civil Procedural  
Rules Committee

R. Stanton Wettick, Jr.  
Chair