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Guffey v. Lexington House

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**THE CLAIM GAME: THE LOUISIANA SUPREME COURT’S
DISCUSSION OF A PROPER MEDICAL REVIEW CLAIMANT
IN *GUFFEY V. LEXINGTON HOUSE***

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I. INTRODUCTION

“I will keep them from harm and injustice.” This classic iteration of the Hippocratic Oath is one of the duties that doctors hold themselves to when treating a sick or ailing patient.¹ Indeed, we all go to the doctor’s office with an aspiration for adequate treatment and a hope that our doctors and caretakers will perform our treatments smoothly. In the unfortunate circumstance of a doctor’s wrongdoing, however, certain protocols must be followed to remedy the injured patient’s harm. A recent decision of the Louisiana Supreme Court calls into question the correct method to cure such an injustice. When a patient has suffered injury or death as a result of medical malpractice by his or her doctor or caretaker, the litigants to the suit must file a medical review panel claim to deter-

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1. William C. Shiel, Jr., *Medical Definition of Hippocratic Oath*, MEDICINE.NET, <https://perma.cc/4ZG8-ULZW>.

mine whether the doctor breached his or her standard of care. The Louisiana Supreme Court's recent holding in *Guffey v. Lexington House*² limited the class of persons eligible to file this crucial step in the litigation.

II. BACKGROUND

Under the Louisiana Medical Malpractice Act (the "Act"), in order to bring a claim for medical malpractice, a patient or their representative must file a claim for a medical review panel before filing the suit.³ Louisiana courts have established that "[a] request for a medical review panel is a prerequisite to and not the equivalent of a suit for medical malpractice."⁴ The panel is a body of experts who evaluate a medical claim and provide an expert opinion as to whether the doctor or health care provider in question breached his or her duty of care.⁵ The duty of care required is the "degree of skill ordinarily employed, under similar circumstances, by members of the profession in good standing in the same community or locality, and to use reasonable care and diligence."⁶ The panel does not make findings on damages, and litigants may still proceed with bringing suit even if the panel determines there was not a breach.⁷ The Act defines a "claimant" for medical review panel purposes as "a patient or representative or any person, including a decedent's estate, seeking or who has sought recovery of damages or future medical care and related benefits."⁸ When a medical review panel claim is filed by a proper claimant, the prescriptive period for a medical malpractice claim is suspended during the full time the claim is pending before a medical review pan-

2. *Guffey v. Lexington House, LLC*, 283 So. 3d 1001 (La. 2019).

3. LA. REV. STAT. ANN. § 40:1231.8(A)(1)(a) (2019).

4. *Houghton v. Our Lady of the Lake Hosp., Inc.*, 859 So. 2d 103, 105-106 (La. App. 1 Cir. 2003).

5. LA. REV. STAT. ANN. § 40:1231.8(N)(6) (2019).

6. *Id.* at § 40:1231.1(A)(22).

7. *Guffey*, 283 So. 3d at 1012 (Johnson, C.J., dissenting).

8. LA. REV. STAT. ANN. § 40:1231.8(A)(4) (2019).

el and ninety days following notification to the claimant or her attorney of the panel's opinion.⁹

In *Guffey v. Lexington House*, Geneva Guffey was an elderly patient at Lexington House Nursing Home in Alexandria, Louisiana, who died on May 16, 2016.¹⁰ Her granddaughter, Deana Frederick, alleged that some months before her death, Ms. Guffey had been dropped during a transfer from her bath chair to her bed, causing injuries that eventually led to her death. Ms. Frederick filed a complaint of medical malpractice and requested the formation of a medical review panel on November 2, 2016. Two of Mrs. Guffey's surviving sons, George Guffey and James Guffey, who were the plaintiffs in the case before the Louisiana Supreme Court, were added as claimants to the medical review panel on May 18, 2017, more than one year after Mrs. Guffey's death.¹¹

On May 22, 2017, Lexington House filed an exception of no right of action, asserting that Ms. Frederick was not a proper claimant because she was not included in the class of persons entitled to recover damages for a wrongful death and survival action under Louisiana Civil Code articles 2315.2 and 2315.1, respectively.¹² The trial court denied the exception, arguing that a "claimant" for medical review panel purposes is not limited to those who will ultimately be allowed to assert a survival or wrongful death claim when the panel proceedings are concluded.¹³ The medical review panel eventually held that Lexington breached its standard of care since Mrs. Guffey should have been transported to her bath chair by two people, but concluded that the laceration did not "exacerbate any of her chronic medical problems nor did it contribute to her ultimate demise."¹⁴

9. *Id.* at § 40:1231.8(A)(2)(a).

10. *Guffey*, 283 So. 3d at 1003.

11. *Id.*

12. *Id.* The first line of proper claimants under the articles are the decedent's surviving spouse and children.

13. *Id.* at 1004.

14. *Id.*

On January 28, 2018, within ninety days of the issuance of the medical review panel opinion, James and George Guffey filed suit on behalf of their mother, and Lexington filed an exception of prescription, alleging that the actions prescribed since neither brother filed a malpractice claim within one year of the death of their mother or discovery of the malpractice.¹⁵ The trial court denied the exception of prescription, holding that Ms. Frederick was a proper claimant because of her actual relationship with Ms. Guffey, and that the timely filing of a claim for medical malpractice by one claimant suspends prescription with regard to all other potential claimants even if they were not named in the case.¹⁶ The appellate court later affirmed, holding that Ms. Frederick was a proper claimant as a succession representative and extending the holding in *Truxillo v. Thomas* to allow suspension of the Guffey brothers' suit due to Ms. Frederick's medical review panel claim.¹⁷

III. DECISION OF THE COURT

The Louisiana Supreme Court, with Justice Guidry writing for the majority, reversed the court of appeals' ruling that Ms. Frederick was not a proper claimant for medical review panel purposes under the Act and held that prescription was thus not interrupted. The court reasoned that a proper medical review panel claimant under the Act must be someone "seeking or who has sought recovery of damages or future medical care and related benefits under this Part."¹⁸ Thus, a claimant is only proper if he or she has a right of action to claim wrongful death and survival damages under Louisiana Civil Code articles 2315.1 and 2315.2. Because the proper party must be the decedent's surviving spouse or children, Ms. Frederick did not fall into this class of persons, and,

15. *Id.*

16. *Id.* at 1005 (citing *Truxillo v. Thomas*, 200 So. 3d 972, 976 (La. App. 4 Cir 2016)).

17. *Id.* at 1006.

18. *Id.* at 1008.

thus, her filing of the medical review panel did not interrupt prescription.

In her dissent, Chief Justice Johnson noted that Ms. Frederick was a proper claimant under the statute because she was Mrs. Guffey's succession representative, had a valid power of attorney, and was named executrix and sole beneficiary under Ms. Guffey's will.¹⁹ Additionally, the dissent distinguished a medical review panel from a wrongful death action, holding that the medical review panel does not have the power to adjudicate the rights of parties.²⁰ The dissent ultimately concluded that the statutory language of the Act was broad enough to include Ms. Frederick, since the claim could be brought by a patient or his or her representative, with a "representative" including a legal agent of the patient, which Ms. Frederick was through her power of attorney.²¹

IV. COMMENTARY

The Supreme Court's holding in *Guffey* presents a problematic precedent regarding both statutory interpretation and procedural guidelines. It has long been an interpretative dogma that when a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written, and no further legislative interpretation shall be made.²² Ironically, when the majority in this case held that the plaintiffs ignored the full wording of the statute, the majority indeed committed the same blunder themselves. Section 40:1231.1(A)(4) of the Louisiana Revised Statutes, through its wording, essentially lists three main sets of people allowed to file a medical review claim: the patient *or* their representative *or* any person seeking damages/future medical care benefits. While the statutory language and punctuation placement is indeed quite intricate, a reasonable reading of the statute

19. *Id.* at 1013 (Johnson, C.J., dissenting).

20. *Id.*

21. *Id.*

22. LA. CIV. CODE ANN. art. 9 (2019).

should be broad enough to include Ms. Frederick because, due to her legal duty toward Mrs. Guffey, she could be qualified as a valid representative. Although Ms. Frederick is not in the first class of plaintiffs to bring suit for wrongful death and survival, she is indeed a valid legal representative of Ms. Guffey and could be deemed a proper claimant under the statute. Additionally, as a legal representative and voice for Ms. Guffey, Ms. Frederick could also satisfy the requirement of having a “real and actual interest”²³ in the action at hand. Although Ms. Frederick is not a proper party to claim wrongful death and survival damages under the Act, her significant personal and legal relationship with Mrs. Guffey should warrant her a proper party to at least file a claim to discover whether the nursing home breached their duty, which ultimately led to her grandmother’s demise.

The most detrimental consequence of the holding of this case is the Supreme Court’s treatment of the medical review panel claim as an extension of, rather than a supplement to, the medical malpractice action. While convening a medical review panel is certainly a prerequisite that must be met, the purposes and proceedings of both actions should not warrant a similar holding in terms of proper parties. Even though a person may not have a legal right to collect wrongful death and survival actions, he or she should at least be granted a courtesy in being allowed to investigate the cause of their loved one’s death. Essentially, if Mrs. Guffey entrusted Ms. Frederick enough to act as her legal representative and carry out her estate, Ms. Frederick should, at a bare minimum, have a right to find out what indeed happened to her grandmother.

Since the medical review panel is only a means rather than an end to collect wrongful death damages, a proper claimant should not be severely limited in this preceding procedure. Indeed, a medical review panel’s composition is made up of three health care providers and one attorney, who does not vote and is purely there

23. LA. CODE CIV. PROC. ANN. art. 681 (2019).

to advise the panel.²⁴ Since the panel is not composed of legal experts designed to either award damages or render judgment in favor of either party, it seems strained to liken these two distinct proceedings and hold that only an actual party to the lawsuit can determine whether the doctors breached. Since the legislature allowed “agents” or “representatives” to initiate a claim under the Act, the legislature intended to enable “agents” and “representatives” to protect the estate for those who may ultimately have a right to file suit.²⁵

While the majority in this case is correct in holding the Guffey brothers are proper claimants under the statute, the court’s holding severely limits and undermines the wording of the Medical Malpractice Act and confuses the steps of the litigation process. The majority cites Louisiana Revised Statutes section 40:1231.8(B)(2)’s language that a health care provider against whom a claim has been filed may raise the peremptory exception of no right of action at any time without the need for completion of the medical review panel.²⁶ Regarding the majority’s opinion, the legislature may not have anticipated the situation, such as the one here, where a proper medical review panel claimant is different from a proper medical malpractice lawsuit plaintiff. However, the majority’s argument here could be considered a bit reaching. One of the fundamental principles of statutory interpretation is that when the language of a law is susceptible of different meanings, the law must be interpreted as having the meaning that best conforms to the purpose of the law.²⁷ As illustrated above, because the purpose of the medical review panel is to determine whether a doctor breached, rather than to collect damages, Ms. Frederick should have been deemed a proper claimant because a broader definition of “claimant” should be allowed to determine breach rather than to collect damages.

24. WILLIAM E. CRAWFORD, 12 LOUISIANA CIVIL LAW TREATISE—TORT LAW § 15:5 (2d ed., West 2018).

25. *Guffey*, 283 So. 3d at 1009.

26. *Id.* at 1010.

27. LA. CIV. CODE ANN. art. 10 (2019).

The Louisiana Supreme Court's decision in *Guffey* certainly represented a landmark case as to the procedure for filing a medical review panel. While the majority does make strong arguments of statutory interpretation with its holding, the dissent seemed to have a better viewpoint in terms of policy considerations. The policy considerations emphasized by the dissent should outweigh the strict, albeit problematic, textual interpretation of the majority. In the holding, the court denies those with a legal duty to the patient the right to file a review panel claim by limiting the definition of "claimant" to essentially only a family member. While the majority does present strong rationale as to its definitions, its holding could indeed be a form of injustice to the Guffey's that the Hippocratic oath was meant to prevent.