

IN THE CIRCUIT COURT FOR DYER COUNTY, TENNESSEE

MARY WILLIS, individually and as )  
surviving spouse of deceased husband, )  
MARK WILLIS, and JASON WILLIS and )  
AARON WILLIS, by next friend and mother )  
MARY WILLIS, )

Plaintiffs, )

vs. )

No. 26855 )

NATIONAL MEDICAL HOSPITAL OF )  
DYER COUNTY, INC. d/b/a UNIVERSITY )  
MEDICAL CENTER, JEFFERSON L. )  
BLAKE, M.D., UNIVERSITY )  
EMERGENCY PHYSICIANS, P.C., )  
FRANKLIN DOWNS, III, M.D., NICK )  
SNOW, M.D., ROBERT FORREST, M.D., )  
THE CARDIOLOGY GROUP, PLLC, )  
ROBERT DOWDY, M.D., and )  
RADIOLOGICAL AND NUCLEAR )  
MEDICINE ASSOC., P.C., )

JURY DEMAND )

Defendants. )

**PLAINTIFF'S RULE 26 DISCLOSURE OF GARY A. SALINGER, M.D.**

The plaintiff expects to call Gary A. Salinger, M.D. as a Rule 26 expert in this lawsuit. The expected testimony of Dr. Salinger is summarized below:

1. Gary A. Salinger, M.D., is a physician specializing in internal medicine, pulmonology, and critical care medicine in Johnson City, Tennessee. He is on the faculty of the East Tennessee State University – Johnson City School of Medicine. Dr. Salinger received his medical degree in 1980 from the University of Tennessee – Knoxville. He completed his residency in internal medicine at North Carolina Baptist Hospital at the Bowman Gray School of Medicine. He completed a fellowship at the University of Tennessee Medical Center, Knoxville, Tennessee. He is licensed to practice medicine in

Tennessee. He is board certified in internal medicine, pulmonology (subspecialty boards), and critical care medicine (subspecialty boards). Dr. Salinger has practiced in his areas of specialization in Tennessee for many years, including the year prior to July 2001. A copy of his curriculum vitae is attached.

2. Dr. Salinger has reviewed various records and documents regarding the medical care and condition of Mark Willis. These documents include the medical records of Mr. Willis from his stay at KMC in Dyersburg, Tennessee in July 2001; medical records of Mr. Willis from the East Dyer Family Practice; the death certificate; ambulance records of July 8, 2001; x-rays taken of Mr. Willis at the East Dyer Family Practice in 1998, at the Hilltop Medical Center in 1999, and at KMC in July 2001; various depositions taken in this lawsuit; and other materials.

3. Dr. Salinger is familiar with the standard of care in Dyersburg, Tennessee or similar communities applicable to and governing internists and pulmonologists as of July 2001. His familiarity is based upon his professional capacity and experience as an internist and pulmonologist, his attendance at medical meetings and conventions, his review of literature, and interactions with physicians. Dr. Salinger is familiar with the city of Dyersburg, Tennessee, including its location, demographics, and medical resources. He is also familiar with the standard of care as of July 2001 in communities that are similar to Dyersburg, Tennessee in terms of their demographics and medical resources.

4. The fact that Dr. Downs, Dr. Forrest, and Dr. Salinger are board certified internists is one factor among others that supports Dr. Salinger's familiarity with the standard of care for internists in Dyersburg, Tennessee as of July 2001. Physicians who

are board-certified internists have similar training and are expected to practice similar standards in the care of patients. To become board certified in this field, a physician must also pass rigorous board exams. These exams require the physicians to be thoroughly familiar with practices and procedures that internists should follow under certain situations, which include knowing when to recognize the signs and symptoms of cardiac problems. The same reasoning applies to board-certified pulmonologists. Like Dr. Downs, Dr. Salinger is also a board-certified pulmonologist. According to the American Board of Internal Medicine, there are approximately 6 board-certified internists in Dyersburg, Tennessee, so this factor among others helps him in his overall understanding of the standard of care for internists in Dyersburg, Tennessee as of July 2001 and how internal medicine is practiced there.

5. When Dr. Salinger refers to the “applicable internist standard of care,” he is referring to the standard of care applicable to and governing internists in Dyersburg, Tennessee or similar communities in July 2001. Internists in Dyersburg, Tennessee or similar communities who specialize in fields such as pulmonology and cardiology are still expected to meet the applicable internist standard of care, because this is the basic level of competency that underlies their specialty training. This is why a cardiologist or pulmonologist must meet the applicable standards for internists. When Dr. Salinger refers to the “applicable pulmonologist standard of care,” he is referring to the standard of care applicable to and governing internists who specialize in the field of pulmonology, such as Dr. Downs, in Dyersburg, Tennessee or similar communities in July 2001.

6. Based upon his education, training, and experience, Dr. Salinger is qualified to render opinions within a reasonable degree of medical certainty about the

proper diagnostic and treatment measures that should have been taken for Mark Willis in July 2001 in Dyersburg, Tennessee or similar communities. Based upon his education, training, and experience, Dr. Salinger is also qualified to render opinions within a reasonable degree of medical certainty about the factors that contributed to cause the injuries and death of Mr. Willis that otherwise would not have occurred, including the failures to appropriately diagnose and treat Mr. Willis's cardiac problems. Internists and pulmonologists have extensive training and experience in the evaluation and care of cardiac problems. Internists and pulmonologists have a thorough understanding of the cardiovascular system and its physiology. Internists and pulmonologists have knowledge of the function of the heart and how it relates to other organ systems and physiological processes. Moreover, pulmonology is closely related in many respects to cardiology, because pulmonologists must understand the interrelationship between the cardiac and pulmonary systems in treating a patient. It is expected that a pulmonologist will consider the effects of a treatment regimen on a patient's cardiac system. To do so, a pulmonologist must have the requisite understanding of the cardiac system itself. Therefore, Dr. Salinger's additional training, education, and experience as a pulmonologist furthers his ability to opine within a reasonable degree of medical certainty about the factors that contributed to cause the injuries and death of Mark Willis that otherwise would not have occurred.

7. Within a reasonable degree of medical certainty, it is Dr. Salinger's opinion that Franklin Downs, III, M.D. violated the applicable internist and pulmonologist standards of care and that Robert Forrest, M.D. and Dr. Nick Snow violated the applicable internist standard of care and that their violations of these

applicable standards of care as discussed in this statement contributed to cause the injuries and death of Mark Willis that otherwise would not have occurred. Dr. Salinger may also address opinions offered by the defendants' experts.

8. The medical records show that Dr. Franklin Downs III first saw Mark Willis on July 7<sup>th</sup>. Dr. Downs violated the applicable internist and pulmonologist standards of care by failing to properly evaluate and diagnose Mr. Willis's cardiac dysfunction apart from any diagnosis of pneumonia in light of his clinical presentation, family history of cardiac problems, diabetic history, and x-ray results; failing to obtain appropriate diagnostic measures; failing to properly evaluate the x-rays taken of Mr. Willis; and failing to communicate with other providers and institute proper treatment measures for his cardiac condition. Dr. Downs should have ordered an EKG, echocardiogram, and cardiac enzyme markers. Based upon all the available information, as well as information that could have been obtained by Dr. Downs by the proper diagnostic tests, Dr. Downs should have made the diagnosis that Mr. Willis was suffering from cardiac problems apart from any diagnosis of pneumonia.

9. Dr. Downs violated the applicable internist and pulmonologist standards of care by failing to order an EKG for Mr. Willis during his visit on July 7 and at regular intervals thereafter. A diabetic, middle-aged person with who was sick enough for admission into the hospital with chest pain and other positive symptoms and who had an x-ray showing cardiac dysfunction should have an EKG performed. Based on his failure his to order EKGs, Dr. Downs did not properly perform a differential diagnoses in light of all the positive findings and history. The EKG would more likely than not have shown some signs of heart dysfunction. However, even if the EKG had been normal, it would

have provided a baseline for comparison purposes later. The abnormal EKG would have caused Dr. Downs to further diagnose, communicate, and aggressively treat Mr. Willis's heart dysfunction. Instead, by not obtaining an EKG, Dr. Downs apparently provided care under the assumption that the only condition was pneumonia and did not consider strong evidence that implicated the abnormal functioning of the heart. Acting within the applicable internist and pulmonologist standards of care, Dr. Downs would also have ordered cardiac enzymes as an additional diagnostic tool. He would also have ordered an echocardiogram to assess the cardiac status of Mr. Willis. Dr. Downs had the opportunity as a physician to make sure that the heart dysfunction of Mr. Willis was factored into the treatment regimen. Within a reasonable degree of medical certainty, if Mr. Willis had already suffered a heart attack, prompt treatment actions would have included obtaining a cardiac consult and administration of appropriate medications such as aspirin, heparin, and nitroglycerin, as well as transferal of Mr. Willis to another facility for thrombolytic therapy or cardiac catheterization as deemed appropriate. If Mr. Willis had not suffered a heart attack by the time of the first visit by Dr. Downs, aggressive treatment measures included obtaining a cardiac consult and administration of appropriate medications such as aspirin and heparin and consideration of balloon dilation of the affected vessels to clear the blockage or blockages. Acting within the applicable internist standard of care, Dr. Downs would also have obtained a cardiac consult so that Mr. Willis would be sent to a catheterization lab for angiographic studies to determine the nature and extent of blockages. This information, in turn, would have led cardiac specialists to perform cardiac catheterization as appropriate. Within a reasonable degree of medical certainty, the treatment measures discussed above would have prevented the

injuries and death of Mr. Willis that otherwise would not have occurred. Instead, Dr. Downs' failure to recognize and treat Mr. Willis's cardiac problems contributed to the substandard care at KMC and the injuries and death of Mr. Willis.

10. Dr. Downs violated the applicable internist standard of care by failing to consult with Dr. Snow to tell him that Mr. Willis was suffering from cardiac problems that needed to be carefully monitored and treated. By failing to supply this information to the primary treating physician, Dr. Downs allowed Mr. Willis to continue on the wrong treatment path. This included excessive fluid administration. His failure to take these steps violated the applicable internist and pulmonologist standards of care and contributed to cause Mr. Willis's injuries and death that otherwise would not have occurred.

11. In violation of the applicable internist and pulmonologist standards of care, based upon the chart Dr. Downs apparently did not factor pain into his analysis of Mr. Willis's condition. This was contradicted by earlier entries on the medical chart and the amount of pain medication that had been prescribed throughout the hospitalization. Dr. Downs violated the applicable internist and pulmonologist standards of care by failing to use that information to assist in his overall diagnoses and treatment plan. The information about the pain would have helped Dr. Downs to recognize that Mr. Willis had cardiac problems that needed to be aggressively treated.

12. Dr. Downs violated the applicable internist and pulmonologist standards of care by failing to appropriately interpret the x-rays of July 5 and July 7, which showed cardiac dysfunction. Acting under the applicable internist and pulmonologist standards

of care, these x-rays would have led Dr. Downs to understand that there were cardiac problems and would have led him to communicate and take different treatment measures.

13. Dr. Downs violated the applicable internist and pulmonologist standards of care by failing to order the CT Scan on a stat basis. Dr. Downs ordered that the CT Scan be performed the following day. During Mr. Willis's hospitalization, every day mattered to the treatment for his heart condition. If Dr. Downs had ordered and obtained the CT Scan on a stat basis, this would have helped him discover sooner that Mr. Willis had cardiac problems apart from any pneumonia. Instead, Dr. Downs violated the applicable internist and pulmonologist standards of care by continuing to treat Mr. Willis for the diagnosis of pneumonia.

14. The failures and violations of the applicable internist standard of care outlined above are also attributable to Dr. Snow and Dr. Forrest for the same reasons, since they failed to properly evaluate and diagnose Mr. Willis's condition and cardiac dysfunction apart from any diagnosis of pneumonia in light of Mr. Willis's clinical presentation, his family history of cardiac problems, his history of diabetes, and the x-rays that were available; they failed to obtain the appropriate diagnostic measures including EKGs, echocardiograms, and cardiac enzyme markers; they failed to properly evaluate the x-rays taken of Mr. Willis that were available to them; and failed to communicate the proper diagnosis to other providers and to institute proper treatment measures for Mr. Willis's cardiac condition. Dr. Snow and Dr. Forrest also violated the applicable internist standard of care by these failures, and their failures also contributed to cause the injuries and death of Mr. Willis that otherwise would not have occurred. As with Dr. Downs, these failures of Dr. Snow and Dr. Forrest prevented an earlier diagnosis

of cardiac problems so that earlier treatment would have been undertaken and Mr. Willis's life would have been saved.

15. Within a reasonable degree of medical certainty, the failure to obtain each of diagnostic measures discussed in this statement, including an EKG, echocardiogram, and cardiac enzyme studies, contributed to cause the injuries and death of Mr. Willis that otherwise would not have occurred. Such tests would have shown physicians acting under their applicable standards of care that Mr. Willis was experiencing cardiac dysfunction from the time of his entry into the emergency room. Mr. Willis was in the hospital from July 5 to the morning of July 8 before his cardiac condition was discovered. If the cardiac condition had been diagnosed hours earlier in the morning of July 8 than it actually was, the appropriate treatment measures would have been taken within the standards of care applicable to the physicians. Within a reasonable degree of medical certainty, the failure of all the providers to diagnose the cardiac condition of Mr. Willis earlier than July 8 based upon the available clinic information, patient history, family history, and diagnostic tests that were done and those that should have been done contributed to cause the injuries and death of Mr. Willis that would otherwise not have occurred. Within a reasonable degree of medical certainty, the failure of the providers to take different, aggressive, and earlier treatment measures as discussed in this statement contributed to cause the injuries and death of Mr. Willis that otherwise would not have occurred.

16. Within a reasonable degree of medical certainty, the failure of the physicians in July 2001 at KMC to properly interpret, report, and/or communicate the results of the July 5 and July 7 x-ray examinations as showing cardiac dysfunction apart

from any pneumonia contributed to cause the injuries and death of Mr. Willis that otherwise would not have occurred. The July 5 x-ray examination showed evidence of cardiac dysfunction and should have been interpreted and reported as such. The failure to interpret and report the x-ray examination of July 5 as showing heart dysfunction contributed to cause the injuries and death of Mr. Willis, because a proper interpretation of cardiac dysfunction would have, within a reasonable degree of medical certainty, assisted the physicians acting within their applicable standards of care to make their diagnosis of cardiac problems apart from any diagnosis of pneumonia and would have led these providers to recognize that Mr. Willis had cardiac problems so that appropriate, aggressive, and different treatment measures would have been taken earlier. This same analysis is true of the July 7 x-ray examination, which showed cardiac dysfunction and should have been interpreted as such by the treating physicians under their applicable standards of care so that the appropriate treatment steps would have been taken for Mr. Willis to prevent his death.

17. Dr. Salinger is aware that there is expert testimony that Dr. Jefferson L. Blake violated the standard of care applicable to emergency department physicians in Dyersburg, Tennessee or similar communities in July 2001, including by failing to diagnose the cardiac dysfunction of Mr. Willis; failing to obtain appropriate diagnostic tests; and failing to properly interpret the July 5 x-ray examination as showing cardiac abnormality. Dr. Salinger is also aware that there is expert testimony that Dr. Robert Dowdy violated the standard of care applicable to radiologists in Dyersburg, Tennessee or similar communities in July 2001 by failing to properly interpret the July 5 x-ray as showing cardiac abnormality and by failing to communicate the correct results. Within a

reasonable degree of medical certainty, these failures of Dr. Blake and Dr. Dowdy as stated contributed to cause the injuries and death of Mr. Willis that otherwise would not have occurred. Like the violations of Dr. Downs, Dr. Snow, and Dr. Forrest, their failures prevented an earlier diagnosis of cardiac dysfunction apart from any diagnosis of pneumonia so that prompt treatment would have been started to prevent the death of Mr. Willis.

18. Dr. Salinger has reviewed the assertions against the nurses of KMC. Within a reasonable degree of medical certainty, the violations as stated of the nursing standards of care contributed to cause the injuries and death of Mr. Willis, since they prevented an earlier diagnosis and treatment that would more likely than not have saved Mr. Willis's life.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was sent via regular U.S. Mail to Daniel G. Thompson, Thompson & Thompson, Court Square Building, 300 Main Street, Dyersburg, TN 38009; Raymond J. Johnson, Jr., Ferrell and Smith, Suite 225, 245 First Avenue, Dyersburg, TN 38009; Todd Simpson, Simpson, Simpson & Jones, PLC, Bank of America Plaza, Ste. 602, 414 Second Street, Dyersburg, TN 38009; William C. Scott,

Scott & Whiteman, Suite 509, Court Square Bldg, Dyersburg, TN 38009; Rodger Bennett, Fifth Floor, 215 Fourth Avenue, Dyersburg, TN 38009; on this \_\_\_\_ day of April, 2002.

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John D. Wood