

A Medical Provider's Policies and Procedures Can Be Used Against It in Negligence and Medical Malpractice Lawsuits

Medical providers' internal rules, policies, and procedures for the conduct of patient care – called standing orders – can be admissible as evidence against them in a medical malpractice or negligence lawsuit. In a medical malpractice case, the plaintiff must demonstrate that the defendant(s) violated the standard of care. This is typically determined with the help of testimony from a medical expert. In contrast, ordinary negligence cases require a plaintiff to prove that the defendant(s) failed to exercise reasonable care under the circumstances. In an ordinary negligence case, the judge or jury applies common knowledge and experience rather than medical judgment to determine what care is reasonable.

In a case decided July 7, 2022 (*Meyers v Rieck*, 2022 WL 2541769), the Michigan Supreme Court unanimously held that a medical provider's standing orders can be admitted as evidence of the standard of care or of reasonable care. However, the Court made it clear that standing orders, on their own, can never establish the standard of care in a lawsuit. If such evidence is admitted, it must be accompanied by other evidence to help establish the standard of care. Requiring additional evidence on the standard of care prevents patients or medical providers from using corporate policy-making to determine what level of care the law will hold them to. Medical providers should take care to ensure their standing orders are consistently followed.



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