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# IN THE COURT OF APPEALS OF IOWA

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No. 25-1186
Filed August 19, 2026

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**Jacob Colfax Knapp,**
Plaintiff–Appellant,
v.
**State of Iowa,**
Defendant–Appellee.

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Appeal from the Iowa District Court for Johnson County,
The Honorable Andrew Chappell, Judge.

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**AFFIRMED**

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Molly M. Hamilton (argued) and Steve Hamilton of Hamilton Law Firm, P.C., Clive, attorneys for appellant.

Aaron J. Redinbaugh (argued), Stacie M. Codr, and Peter R. Lapointe of Finley Law Firm, P.C., Des Moines, attorneys for appellee.

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Heard at oral argument
by Schumacher, P.J., and Ahlers and Badding, JJ.
Opinion by Badding, J.

**BADDING, Judge.**

In this latest certificate-of-merit case under Iowa Code section 147.140 (2023), we must decide whether an unsworn written statement that includes the phrase "under penalty of perjury"—but does not certify the matter to be true under the laws of this state and is not dated—substantially complies with the statute. We conclude that it does not under our supreme court's recent decisions in *Miller v. Catholic Health Initiatives-Iowa, Corp.*, 7 N.W.3d 367 (Iowa 2024), *Banwart v. Neurosurgery of North Iowa, P.C.*, 18 N.W.3d 267 (Iowa 2025), and *Rarick v. Smidt*, 36 N.W.3d 1 (Iowa 2026). We accordingly affirm the district court's dismissal of Jacob Knapp's medical malpractice lawsuit against the State of Iowa.

## I. Background Facts and Proceedings

Jacob Knapp had surgery at the University of Iowa Hospitals and Clinics in January 2022 to repair a right mid-humerus fracture with radial nerve transection. According to Knapp's petition, certified registered nurse anesthetist Brittany Van Sickle oversaw Knapp's sedation during the procedure. As the surgery progressed, Knapp's oxygen levels and blood pressure dropped. When he woke up from the surgery, Knapp had darkened vision and decreased perception. Doctors later attributed Knapp's vision loss—which they did not believe would improve—to perioperative hypotension.

In March 2023, Knapp sued Van Sickle and the State of Iowa.[1] Although the petition identified twenty medical providers involved in his

[1] After the State certified that Van Sickle was an employee acting within the scope of her employment, Knapp dismissed Van Sickle from the lawsuit, leaving the State as the only defendant. *See* Iowa Code § 669.5(2)(a).

care, Van Sickle was the only provider that Knapp alleged was negligent. Knapp retained J. Benjamin Campbell, a certified registered nurse anesthetist, as an expert and timely served a certificate of merit from Campbell on the State. After paragraphs that detailed Campbell's qualifications and opinions about Van Sickle's standard of care, the unsworn certificate ended with:

> I make all of the foregoing statements in good faith and under penalty of perjury.

The certificate was signed by Campbell, but it was not dated or notarized.

Trial was set for July 2025, and the parties began to engage in extensive discovery. While discovery was underway, the State filed a motion in February 2024 to "dismiss all claims unrelated to care provided by CRNA Van Sickle" under Iowa Code section 147.140 because the sole certificate of merit did "not cover any other healthcare provider." Knapp resisted the motion, noting that the close-of-pleadings deadline was not until May 2025. He argued that discovery was ongoing to determine the roles and identities of all the care providers and that "[t]here is no case law or rule of civil procedure that requires a plaintiff to plead each and every possible, known or not yet known, cause of action or allegation of negligence in a petition or lose the right to do so."

The district court granted the motion, finding that Knapp "has not alleged the standard of care or breach of the standard of care as to anyone except Ms. Van Sickle," and "the 60-day time period for filing any other Certificate of Merit has now passed." The court concluded that "[t]o the extent" Knapp's petition "potentially alleges any claims of medical negligence against any healthcare provider other than Brittany Van Sickle, they should be dismissed with prejudice" under section 147.140.

More than one year later—and with trial just three months away—the State filed another motion to dismiss, this time claiming that the certificate of merit did not fulfill the oath requirement of section 147.140. The State focused on Campbell's failure to sign the certificate of merit before a designated official, the failure to include the date of execution, and the failure to certify that the statements made in the certificate were true. Knapp resisted the motion, arguing the certificate of merit substantially complied with section 147.140 because it stated that it was made "under penalty of perjury" as required by Iowa Code section 622.1—the affidavit-substitute statute. The district court sided with the State, reasoning that for a certificate of merit to substantially comply with section 147.140 under the affidavit substitute in section 622.1, it must certify that the matter is true under the laws of this state and state the date of its execution. Because the certificate of merit was missing those components, the court granted the State's motion to dismiss Knapp's medical malpractice lawsuit.

Knapp appeals, challenging both dismissals. He claims the district court erred in granting the State's partial motion to dismiss because Iowa Code section 147.140 "does not preclude a plaintiff from amending a pleading to add new defendants or claims." He also claims the court erred in granting the second motion to dismiss because "[a]n oath swearing 'in good faith and under penalty of perjury' substantially complies with the requirements" of section 147.140.

## II. Standard of Review

"We review rulings on motions to dismiss under Iowa Code section 147.140(6) and the district court's statutory construction for correction of errors at law." *Miller*, 7 N.W.3d at 372 (citation omitted).

## III. Analysis

Taking the issues on appeal out of order, we start with the district court's ruling dismissing Knapp's claim as to Van Sickle—the only provider his petition alleged was negligent. As our supreme court recently explained in *Rarick*, Iowa Code section 147.140(1)(a) "requires a medical malpractice plaintiff to serve a certificate of merit 'affidavit' within sixty days of the defendant's answer." 36 N.W.3d at 5. Substantial compliance with this affidavit requirement mandates either:

> (1) a true "affidavit," meaning a written declaration under oath that is made in the presence of "any person authorized to administer oaths," Iowa Code section 622.85; or (2) a written statement that includes the phrase "penalty of perjury" as required by our affidavit-substitute statute, Iowa Code section 622.1.

*Id.* at 3.

There is no dispute that the certificate of merit at issue here was not a true affidavit. As a result, the certificate had to comply with section 622.1 for Knapp to avoid dismissal. *See id.* at 6 ("[W]hen a statement complies with section 622.1, that statement provides 'substantial compliance' with section 147.140's affidavit requirement."); *see also* Iowa Code § 147.140(6) ("Failure to substantially comply with subsection 1 shall result, upon motion, in dismissal with prejudice of each cause of action as to which expert witness testimony is necessary to establish a prima facie case.").

Under Iowa Code section 622.1(1),

> When the laws of this state or any lawful requirement made under them requires or permits a matter to be supported by a sworn statement written by the person attesting the matter, the person may attest the matter by an unsworn written statement if that statement recites that the person certifies the matter to be true under penalty of perjury under the laws of

> this state, states the date of the statement's execution and is subscribed by that person.

The certification "may be in substantially the following form: I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct," followed by a date and signature line. Iowa Code § 622.1(2).

Our supreme court first considered section 622.1's affidavit alternative in *Miller*, which examined whether a report letter with an expert's unsworn signature substantially complied with section 147.140. 7 N.W.3d at 370. The court concluded that it did not because the "letter was not signed 'under penalty of perjury'" as required by section 622.1. *Id.* at 375. The court reasoned that the "'under penalty of perjury' language must be included" because, "like the administration of an oath by an official," that language "acts to bind the conscience of the person and emphasizes the obligation to be truthful." *Id.* (quoting *State v. Carter*, 618 N.W.2d 374, 378 (Iowa 2000) (en banc)). And "requiring the expert to sign under oath is necessary to ensure the reasonable objectives of section 147.140." *Id.* at 374.

The court revisited the affidavit-substitute statute in *Banwart*, where it considered certificates of merit that "experts 'affirmed' without signing under oath or 'under penalty of perjury.'" 18 N.W.3d at 270. The court again held "that to satisfy section 147.140's affidavit requirement, counsel must ensure that a timely certificate of merit is signed by the expert under oath or under penalty of perjury." *Id.* at 274. Noting that section 147.140 must be applied as written, the court emphasized the legislature's repeated use of the term "affidavit," which it viewed as a "policy choice to deter false expert testimony in medical malpractice actions by requiring the expert to sign the certificate of merit under oath or under penalty of perjury." *Id.* at 275.

Finally, in *Rarick*, the court examined a certificate of merit that began with, "The undersigned, being first duly sworn on oath, deposes and states as follows," and ended with, "The above information is true and correct to the best of my knowledge and belief." 36 N.W.3d at 3. Although the expert signed the certificate, his signature was not accompanied by a notary stamp or jurat. *Id.* And the certificate did not include the phrase "under penalty of perjury." *Id.* Citing its opinions in *Miller* and *Banwart*, the court held "that the specific language required by section 622.1—'under penalty of perjury'—is essential" and "must be included." *Id.* (citations omitted).

Seizing on that holding, and the court's focus on the "penalty of perjury" language, Knapp argues that Campbell's certificate of merit substantially complied with Iowa Code section 147.140 and bound his conscience because it was made under penalty of perjury. The court's decisions are not so limited, however. In *Rarick*, the court explained that

> under section 622.1, a document's legal significance turns on the written contents of the document itself. Specifically, if a document is *signed and dated*, the sole question under section 622.1 is whether the document states that the signer is certifying the document's contents "*to be true under penalty of perjury under the laws of this state*." If so, then the document satisfies section 622.1. If not, the document does not satisfy section 622.1.

36 N.W.3d at 9 (internal citations omitted) (emphasis added). Because Campbell's certificate of merit was not dated and because it did not certify that it was true under the laws of this state, the certificate did not satisfy section 622.1 or, by extension, section 147.140. *Id.*

Our conclusion is supported by federal cases interpreting the federal counterpart to Iowa Code section 622.1—28 U.S.C. § 1746.[2] Those courts have held "there are two statements that are essential to a proper verification under § 1746: (i) an assertion that the facts are true and correct; and (ii) an averment that the first assertion is made under penalty of perjury." *United States v. 8 Gilcrease Lane, Quincy Fla. 32351*, 587 F. Supp. 2d 133, 139 (D.C. Cir. 2008); *see also Luxul Tech. Inc. v. NectarLux, LLC*, No. 14-cv-03656, 2016 WL 3345464, at *5 (N.D. Cal. June 16, 2016) ("Substantial compliance requires the declarant to make two assertions in the declaration: (1) that the statements in the declaration were made 'under penalty of perjury,' and (2) 'that the contents were true and correct.'" (citation omitted)).

Without a declaration that a statement is true and correct, the person signing the statement can "circumvent the penalties for perjury in signing onto intentional falsehoods." *Nissho-Iwai Am. Corp. v. Kline*, 845 F.2d 1300, 1306 (5th Cir. 1988). One court explained,

> The specific words required by section 1746 are not mere formalities; they are "indicia of truthfulness." A bedrock presumption of our legal system is that the presence of certain words—words that assert the veracity of the statements made and accept the risk of a specific legal penalty for

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[2] The federal statute provides:

> Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same . . . such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated. . . .

28 U.S.C. § 1746.

> falsehoods—alert declarants to the gravity of their undertaking and thereby have a meaningful effect on truth-telling and reliability.

*Acosta v. Mezcal, Inc.*, No. JKB-17-0931, 2019 WL 2550660, at *2 (D. Md. June 20, 2019) (internal citation omitted). These are the precise concerns underlying the court's decisions in *Miller* and its progeny. As the court in *Miller* stated, "The oath provision in a statute is more than a mere technicality. Its function is both to make clear the significance of filing the document itself and to provide a basis for a perjury action upon proof of falsification." 7 N.W.3d at 376 (citation omitted); *see also Banwart*, 18 N.W.3d at 275 ("Experts, like other humans, have been known to lie. Experts and lay witnesses alike must raise their right hand at trial.").

Federal courts have also held that the date requirement is another essential component of § 1746. In *Bonds v. Cox*, the Sixth Circuit found that "[u]nsworn declarations are permitted to be used as evidence only if 'subscribed . . . as true under penalty of perjury, *and dated*[.]'" 20 F.3d 697, 702 (6th Cir. 1994) (quoting 28 U.S.C. § 1746). Even though the affidavits in *Bonds* were subscribed under penalty of perjury, the court excluded them from consideration because they were undated. *Id.*; *see also McMiller v. Corr. Corp.*, 695 F. App'x 344, 348 (10th Cir. 2017) (finding a signed but undated declaration did not satisfy 28 U.S.C. § 1746); *Coleman v. Experian Info. Sols., Inc.*, 655 F. Supp. 3d 1285, 1321 (N.D. Ga. 2023) ("Unsworn declarations under penalty of perjury like Plaintiff's . . . are required to be signed *and dated*, in accordance with 28 U.S.C. § 1746."). We agree with the State that "[w]ithout a date of execution on the document, it is impossible to determine whether certain statements in the [certificate] are true." For instance, where an expert attests to holding a current active license, *see* Iowa Code § 147.139(1), the truth of that statement would depend upon when it was made.

Thus, even though the certificate of merit included the phrase "under penalty of perjury," because it did not certify its statements to be true under the laws of this state and was not dated, the certificate did not substantially comply with Iowa Code section 147.140's affidavit requirement. As a result, the district court was correct in granting the State's motion to dismiss Knapp's medical malpractice action.

This leaves us with Knapp's challenge to the district court's partial dismissal of "any claims of medical negligence against any healthcare provider other than" Van Sickle—the only medical provider that Knapp claimed was negligent. In challenging that ruling, Knapp argues that section 147.140 "does not preclude a plaintiff from amending a pleading to add new defendants or claims." But Knapp never sought to amend his petition to add new defendants or claims. As a result, we do not address this claim. *See, e.g.*, *Struck v. Mercy Health Servs.-Iowa Corp.*, 973 N.W.2d 533, 541 (Iowa 2022) (noting that if the plaintiff "really has ordinary negligence claims that don't require expert testimony, she should have alleged them in her petition or moved for leave to amend to add them, neither of which she did"); *Meek v. State*, No. 01-1334, 2002 WL 31882881, at *2 (Iowa Ct. App. Dec. 30, 2002) (finding error was not preserved on plaintiff's claim that the court erred in failing to grant her the opportunity to amend her petition before dismissing the case where she never sought to amend the petition).

**AFFIRMED.**




IOWA APPELLATE COURTS

State of Iowa Courts

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| 25-1186 | Knapp v. State |

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