

**SUPREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE**

ADOPTION REPORT

Amendment of Pa.R.Civ.P. 4003.6

On August 27, 2025, the Supreme Court of Pennsylvania amended Pennsylvania Rule of Civil Procedure 4003.6 relating to discovery of a treating physician. The Civil Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

Pa.R.Civ.P. 4003.6 generally prohibits obtaining information from the treating physician of a party unless the party has provided written consent or through another method of discovery authorized by Pa.R.Civ.P. 4001 *et seq.* The rule also sets forth exceptions to that general rule and allows an attorney to obtain information from “the attorney’s client, an employee of the attorney’s client, or an ostensible employee of the attorney’s client.” Pa.R.Civ.P. 4003.6(1)-(3).

In *Mertis v. Oh*, 317 A.3d 529 (Pa. 2024), the Supreme Court was asked to determine whether the rule expressly permitted defense counsel in a medical malpractice case to communicate directly with the plaintiff’s treating physicians, who are represented by attorneys in the same firm as defense counsel. *Mertis*, 317 A.3d at 531. The Court concluded that obtaining information under these circumstances was not permitted under the rule because, under the Rules of Professional Conduct, information known by one attorney is imputed to all other members of the same law firm. *Id.* at 544. Further, the Court found that the rule also prevented the attorney for the treating physician from initiating that attorney-client relationship. *Id.* at 545.

In light of this opinion, Pa.R.Civ.P. 4003.6 has been amended to add commentary acknowledging the holding in *Mertis* and advising readers of the overlap between Pa.R.Civ.P. 4003.6 and the Rules of Professional Conduct and the procedural and ethical ramifications involved when a firm represents a treating physician or has preexisting attorney-client relationships with multiple physicians at least one of whom it represents in a medical malpractice action. Minor restyling amendments have also been made to the rule text.

The proposal was not published for comment because the amendments are technical in nature and do not affect current practice or procedure. The amendments become effective immediately.