

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

OLIVIA LECKNER,)
)
Plaintiff,) C.A. No. N26C-02-190 FJJ
v.)
)
CHRISTIANA CARE HOSPITAL,)
)
Defendants.)

SUBMITTED: July 6, 2026
DECIDED: July 13, 2026

ORDER

*Upon Defendant Christiana Care Health Services, Inc.'s
Motion to Dismiss*

GRANTED

Having considered Defendant Christiana Care Health Services, Inc.'s Motion to Dismiss, the Plaintiff's response, the comments made at oral argument, and the applicable law it appears to the Court that:

1. Plaintiff has filed a medical negligence case against Christiana Care Hospital (the correct legal entity is Christiana Care Health Services, Inc.) alleging that its employees and/or agents breached the standard of care owed Plaintiff during a hospitalization that occurred from November 13, 2023 through November 17, 2023.
2. Plaintiff filed her complaint on February 11, 2026.

3. The statute of limitations for a medical malpractice action in Delaware is 2 years.¹

4. Absent an exception, the latest that the statute of limitations would begin to run in this case is the last day of Plaintiff's admission on November 17, 2023.

5. Plaintiff has filed her complaint beyond the two-year period allowed under Delaware law. Plaintiff maintains that her Complaint was timely because the time of discovery rule and the continuous treatment doctrine tolled the statute of limitations.

6. Plaintiff argues that based on the "time of discovery" rule that the statute of limitations for her medical negligence claim did not begin to run until October 31, 2024 when she "received a diagnosis of optic nerve drusen in both eyes, which plaintiff contends linked the injury to the alleged medical negligence. The inherently unknowable injury rule has been codified in 18 *Del. C.* §6856(1). Section 6856(1) provides:

Solely in the event of personal injury the occurrence of which, during such period of 2 years, was unknown to and could not in the exercise of reasonable diligence have been discovered by the injured person, such action may be brought prior to the expiration of 3 years from the date upon which such injury occurred, and not thereafter;

¹ 18 *Del.C.* §6856.

Section 6856(1) clearly provides that the extra year to file suit is limited to the situation where the personal injury is not known to the plaintiff within the two years of the date of injury. In the instant case plaintiff concedes that she was aware of the injury by October 2024 which was within two years of the injury and over a year prior to the expiration of the two-year period. In short, the one-year extension provided by Section 6856(1) does not apply to the instant facts.²

7. Plaintiff also claims that the statute of limitations is tolled by the continuous treatment doctrine. The continuous negligent treatment doctrine “holds the date upon which the injury occurred as the last act in the negligent medical continuum”.³ This case involves a single act of alleged negligence occurring on November 15, 2023, an MRI scan. Plaintiff has not alleged any claims that subsequent medical treatment by CCHS was negligent nor that it was in the continuum of the alleged medical treatment stemming from the November 15, 2023 MRI scan. Again, the continuing negligent treatment doctrine does not apply to the facts alleged in the complaint.

8. In addition, under 18 *Del. C.* §6853 plaintiff was required to file an affidavit of merit at the time of the filing of the complaint.⁴ No affidavit was filed with the complaint. As such the case is also subject to dismissal for failure to file

² *Robinson v Regal Heights Healthcare & Rehab Ctr., LLC*, 2023 WL 5747570 (Del. Super. 2023).

³ *G.I. Associates of Delaware, P.A. v. Anderson*, 247 A.3d 674 (De. 2021).

⁴ 18 *Del.C.* §6853.

an affidavit of merit.⁵

Wherefore, based on the above Defendant's Motion to Dismiss the Complaint be and hereby GRANTED.

IT IS SO ORDERED.

/s/ Francis J. Jones, Jr.
Francis J. Jones, Jr., Judge

cc: Counsel via File & ServeXpress
Ms. Olivia Leckner, via electronic mail and U.S. Mail.

⁵ The Court is sympathetic to Plaintiff's argument that she was delayed in filing the complaint due to taking care of her mother. However, the law regarding the application of the statute of limitations does not allow me to factor this circumstance into the analysis of whether the complaint was timely filed.