

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Edwin Brannan,

Plaintiff,

v.

HHC South Carolina, Inc., doing business as  
Lighthouse Behavioral Health Hospital,  
Universal Health Services, Inc., John Doe, and  
Jane Doe,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2024-CP-26-05980

**ORDER DISMISSING CASE  
WITHOUT PREJUDICE**

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SC Court of Appeals

This matter is before the Court on a Rule 12(b)(6) motion to dismiss filed by HHC South Carolina, Inc., d/b/a Lighthouse Behavioral Health Hospital (“Lighthouse”). For the reasons set forth below, the Court grants Lighthouse’s motion.

**PROCEDURAL BACKGROUND**

Plaintiff alleges in his Complaint that he was admitted to the Lighthouse Behavioral Health Hospital on or about September 21, 2021 due to psychiatric issues he was experiencing at the time. In the evening of September 24, 2021, Plaintiff eloped from the Lighthouse facility and subsequently suffered injury. Plaintiff filed this action on August 30, 2024, alleging that the Lighthouse Facility was negligent, and that this negligence caused Plaintiff to elope and injure himself.

Lighthouse filed a Rule 12(b)(6) motion to dismiss in lieu of an answer, arguing that this action sounds in medical malpractice and that therefore the Notice of Intent and expert affidavit requirements of S.C. Code Ann. §§ 15-36-100 and 15-79-125 apply. Because neither a Notice of Intent, nor an expert affidavit was filed, Lighthouse argues that this matter should be dismissed.

After reviewing the parties' written submissions and hearing the parties' oral arguments, the Court agrees.

### ANALYSIS

A defendant is entitled to a dismissal pursuant to Rule 12(b)(6) when the allegations in the complaint, viewed in the light most favorable to the plaintiff, do not "entitle the plaintiff to relief under any theory of the case." *Dawkins v. Union Hosp. Dist.*, 408 S.C. 171, 176, 758 S.E.2d 501, 503 (2014).

S.C. Code Ann. § 15-79-125(A) provides that, "[p]rior to filing or initiating a civil action alleging injury or death as a result of medical malpractice, the plaintiff shall contemporaneously file a Notice of Intent to File Suit and an affidavit of an expert witness, subject to the affidavit requirements established in Section 15-36-100 . . ."

"Medical malpractice" means doing that which the reasonably prudent health care provider or health care institution would not do or not doing that which the reasonably prudent health care provider or health care institution would do in the same or similar circumstances." S.C. Code Ann. § 15-79-110(6). "Health care institution" means an ambulatory surgical facility, a hospital, an institutional general infirmary, a nursing home, and a renal dialysis facility." S.C. Code Ann. § 15-79-110(2).

Plaintiff does not dispute that the Lighthouse Behavioral Health Hospital is a hospital, as that term is defined by S.C. Code Ann. § 15-79-110.

However, in *Dawkins*, the Supreme Court of South Carolina recognized that not all claims of negligence that can be levied against a hospital sound in medical malpractice. "In medical malpractice actions, expert testimony is required to establish both the duty owed to the patient and the breach of that duty, unless the subject matter of the claim falls within a layman's

common knowledge or experience.” *Dawkins*, 408 S.C. 171 at 176, 758 S.E.2d at 504. “In general, if the patient receives allegedly negligent professional medical care, then expert testimony as to the standard of that type of care is necessary, and the action sounds in medical malpractice.” *Id.* at 177, 758 S.E.2d at 504.

“However, not every injury sustained by a patient in a hospital results from medical malpractice or requires expert testimony to establish the claim. For example, claims against a hospital for injuries caused by falling ceiling tiles or improperly maintained hallways or parking lots sound in ordinary negligence, and specifically in premises liability. The plaintiff in ordinary negligence cases does not need to produce expert testimony to establish his claim because the jurors can easily understand and evaluate the relevant facts and law merely by exercising their common knowledge.” *Id.*

In *Dawkins*, the plaintiff fell on the way to an emergency room bathroom at “some point after being admitted but prior to receiving treatment.” *Id.* at 174, 758 S.E.2d at 502. The Court concluded that *Dawkins*’ action sounded in ordinary negligence because the “complaint makes clear that [plaintiff] had not begun receiving medical care at the time of her injury, nor does [the complaint] allege the Hospital’s employees negligently administered medical care.” *Id.* at 178, 758 S.E.2d at 505. Accordingly, the Court held that the plaintiff did not need to adhere to the NOI and expert affidavit requirements that apply to medical malpractice actions.

Here, however, Plaintiff’s Complaint makes it clear that he had begun receiving medical care at the Lighthouse facility at the time of his injury. Plaintiff alleges in his Complaint that he was admitted to the Lighthouse facility on September 21, 2021 and that the elopement and injury did not occur until September 24<sup>th</sup> – several days after he had begun receiving medical treatment.

Unlike in *Dawkins*, here Plaintiff's Complaint also alleges that Lighthouse's employees negligently administered medical care. For example, Plaintiff alleges that Defendants failed to properly monitor and supervise Plaintiff, "failed to control Plaintiff's conduct to the extent necessary to prevent him from eloping" and "failed to render services to Plaintiff which Defendants should have recognized as necessary for the protection of Plaintiff." The Plaintiff's Complaint takes issue with the medical care and treatment that the Lighthouse facility provided. However, whether the Lighthouse Behavioral Health Hospital met the standard of care in adequately medicating and/or supervising one of its patients is a medical question that is not within "a layman's common knowledge or experience."

**CONCLUSION**

Based on the foregoing, the Court finds that this action sounds in medical malpractice and that therefore Plaintiff was required to file a Notice of Intent with an accompanying expert affidavit prior to initiating this action, as required by S.C. Code Ann. §§ 15-36-100 and 15-79-125.

Because Plaintiff has failed to comply with S.C. Code Ann. §§ 15-36-100 and 15-79-125, it is hereby **ORDERED, ADJUDGED, and DECREED** that Lighthouse's Motion to Dismiss is **GRANTED**, and that this action, in its entirety, is hereby **DISMISSED WITHOUT PREJUDICE**.

**IT IS SO ORDERED.**

\_\_\_\_\_, 2025

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The Honorable Michael G. Nettles



Horry Common Pleas

**Case Caption:** Edwin Brannan VS Hhc South Carolina Inc , defendant, et al

**Case Number:** 2024CP2605980

**Type:** Order/Dismissal

So Ordered

s/ The Honorable Michael G. Nettles #2140

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