

February 2, 2022

The Not-So-New CPLR Section 213-D “Actions to Be Commenced within Three Years; Medical Debt”

On April 3, 2020, New York State Governor Andrew Cuomo signed the New York's 2021 Executive Budget into law. Due to the COVID-19 pandemic, Governor Cuomo's call for formal licensing and regulation of the debt collection industry was removed from the budget. However, the addition of Section 213-d to the New York Civil Practice Law and Rules, which directly affects hospitals, skilled nursing facilities, and, to a certain extent, assisted living facilities, was signed into law.

The new Section 213-d, titled *Actions to be commenced within three years; medical debt*, provides, “[a]n action on a medical debt by a hospital...or health care professional...shall be commenced within **three years of treatment**.” It shortened the statute of limitations for medical debts, which were previously covered under the standard six-year statute of limitations for contracts and unjust enrichment, to three years. Also, the new Section 213-d now ties to the date of “treatment” and starts running on the date of the “treatment,” not the date of the breach (i.e., non-performance or non-payment), as with the previous six-year statute of limitations. Thus, for example, we used to look for the date on or about which the patient/resident stopped paying his or her invoices as the date the statute of limitations started to run; now, we look for the date on which the charges were incurred, regardless the billing date.

The new Section 213-d became effective immediately. Though the legislation is silent on whether the measure is prospective or retroactive, a review of relevant case law indicates that the three-year limitations period will likely be deemed to apply to all claims accrued (i.e., debts for medical treatment provided) on or after April 3, 2020. Further, the new statute of limitations, has been tolled by Governor Cuomo’s Executive Orders, from March 20, 2020 through November 3, 2020.

Please note that this change in statute of limitations does not directly impact your right to seek voluntary payment via non-judicial means after the expiration of the statute of limitations. Nevertheless, we encourage you to review your current accounts receivable and consider if accelerated collection efforts are needed to ensure that collection lawsuits are initiated within three years of treatment.

If you have any question, please contact Josephine Yang-Paty at jyangpatyi@yangpatyilaw.com and (315) 218-1882.