

Nursing Home Negligence

Every state has a specific statute of limitations for medical negligence, which ends when a lawsuit is filed or when the right to sue is forfeited for delay.

When there is a course of wrongful conduct with damages arising continuously on a daily basis, the statute of limitations does not start to run until the date the course of wrongful conduct finally stops.

In contrast, when there are separate and distinct incidents with separate and distinct consequences, each incident has its own statute of limitations.

COURT OF APPEAL OF LOUISIANA, 1999.

In a recent case, the Court of Appeal of Louisiana noted that the statute of limitations in Louisiana is one year, but when does the one year start?

In this case the substandard care continued until less than a year before the suit was filed. But the court ruled that ongoing substandard care of a nursing home resident is not one ongoing wrongful act.

Instead, the court ruled each incident was a separate and distinct wrongful act with its own statute of limitations.

By the time the lawsuit was filed it had been longer than a year since most of the alleged incidents of abuse, a very favorable interpretation of the law for the defendant nursing home. Hunter v. Tensas Nursing Home, 743 So. 2d 839 (La. App., 1999).