DOCKET NO: FBT-CV23-6124169-S

ARDRIA CARR

V.

NORTHEAST MEDICAL GROUP, INC.

SUPERIOR COURT

J.D. OF BRIDGEPORT

AT BRIDGEPORT

MAY 6, 2024

MEMORANDUM OF DECISION

The defendant moves to dismiss the plaintiff's complaint alleging the plaintiff failed to comply with Connecticut General Statutes §52-190a.

Connecticut General Statutes §52-190a provides that a complaint alleging personal injury resulting from the negligence of a health care provider shall be accompanied by a certificate of good faith. "To show the existence of such good faith, the claimant or the claimant's attorney … shall obtain a written and signed opinion of a similar heath care provider …." Connecticut General Statutes §52-190a(c) mandates that "[t]he failure to obtain and file the written opinion required shall be grounds for the dismissal of the action." See *Bennett v. New Milford Hospital, Inc.*, 300 Conn. 1, 28 (201).

A motion to dismiss pursuant to noncompliance with Connecticut General Statutes §52-190a "does not implicate the court's jurisdiction in any way," but instead "is a unique statutory remedy intended to strengthen the existing good faith inquiry and to expedite the disposition of obviously frivolous medical malpractice actions." *Carpenter v. Daar*, 346 Conn. 80, 87, 124-25 (2023).

In order to address the applicability at §52-190a, the court must first decide whether the complaint sounds in medical malpractice. The appellate court has set forth the test for such analysis as follows:

5/6/24: JDNO sent. Notice to RJD.
Jen Lorenz Asst. Clerk

"The relevant considerations in determining whether a claim sounds in medical malpractice are whether (1) the defendants are sued in their capacities as medical professionals, (2) the alleged negligence is of a specialized medical nature that arises out of the medical professional-patient relationship and (3) the alleged negligence is substantially related to medical diagnosis or treatment and involved the exercise of medical judgment." *Trimel v. Lawrence & Mem'l Hosp. Rehab. Ctr.*, 61 Conn. App. At 357-58.

Despite the plaintiff's argument that her claim is not "a complex medical malpractice case" and simply a negligence claim, the facts alleged by the plaintiff fit within the *Trimel* test. The plaintiff brings this action against the defendant, as her medical provider, for failing to take notice of her "fall risk" bracelet or the notes in her medical chart indicating the same, and failed to provide proper assistance to the plaintiff while she was attempting to sit on an examination table while at the defendant's office for medical treatment. The Court's determination as to whether a claim sounds in medical malpractice is not governed by how the plaintiff chooses to label it. *Votre v. County Obstetrics and Gynecology Group, P.C.*, 113 Conn. App. 569, 580 (2009).

Since the Court concludes that the plaintiff's claim sounds in medical malpractice, the plaintiff was obligated to attach a good faith certificate to her complaint pursuant to Connecticut General Statutes §52-190a. The motion to dismiss is granted.

RILEY, J.