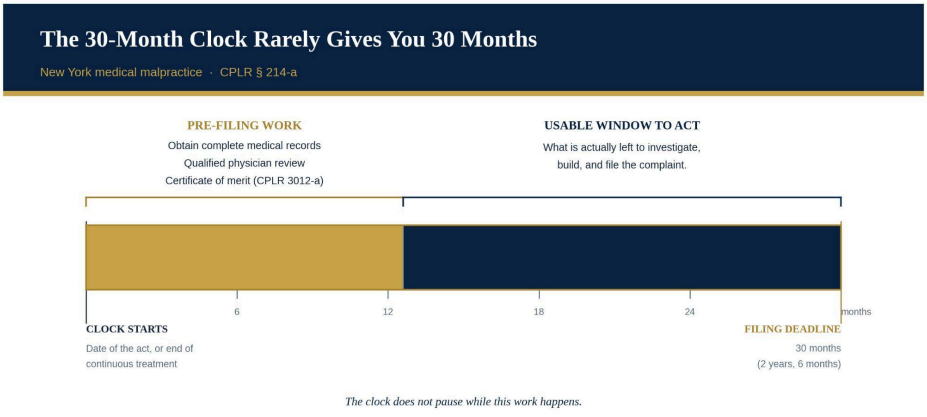
New York Medical Malpractice Statute of Limitations: Deadlines, Exceptions, and When the Clock Starts

Most medical malpractice claims in New York must be filed within two years and six months of the negligent act, or within two years and six months of the last date of continuous treatment for the same condition. That 30-month deadline comes from CPLR § 214-a. Some situations shorten it, such as claims against public hospitals, and others extend it, such as retained surgical objects and certain cancer misdiagnoses.

New York gives injured patients less time than almost any other kind of injury claim. A standard personal injury case carries a three-year window. Medical malpractice runs six months shorter, and the rules that decide when the clock actually starts trip up even people who move quickly. That gap between "when I was harmed" and "when the law says my time began" is where otherwise strong cases die.

The 30-month baseline under CPLR § 214-a



New York's medical malpractice statute of limitations is two years and six months, set by CPLR § 214-a. The deadline covers claims against physicians, hospitals, nurses, dentists, and podiatrists for negligent treatment, diagnosis, or care.

Two and a half years sounds generous until you factor in everything a case needs before filing: obtaining complete medical records, having a qualified physician review them, and preparing the certificate of merit that New York requires under CPLR 3012-a. That last step is not a formality. An attorney has to consult a medical expert who believes the claim has merit before the complaint can be filed, and lining up the right expert takes time that the clock does not pause for.

When the clock starts, and why patients get this wrong

What surprises most people is that for most cases, the clock starts on the date of the negligent act itself, not the date the patient discovers the harm.

New York does not recognize a general discovery rule. If a doctor misreads a scan in March, the 30 months typically run from that March, even if the consequences do not surface for another two years. Most other states start the clock on the date of discovery. New York does not, outside of two narrow exceptions covered below, which makes early legal review far more urgent here than a patient coming from another state might assume.

One doctrine can push the start date later. Under the continuous treatment doctrine, if the same provider keeps treating you for the same condition that gave rise to the claim, the clock does not start until that course of treatment ends. Consider a surgeon who performs a negligent operation in January and provides follow-up care for the same issue through June. The 30-month period runs from June, not January. Routine visits for unrelated matters do not count, and a general doctor-patient relationship is not enough. The treatment has to be connected to the original condition.

Exceptions that move your deadline

Several rules override the standard 30-month calculation. Each one turns on specific facts, and more than one can apply to a single case.

- **Retained foreign object**: If a surgical instrument, sponge, or other object is left inside the body, you have one year from the date it was discovered, or from the date facts emerged that should reasonably have led to its discovery, whichever comes first. This is a true discovery rule, and it exists because a patient has no way of knowing a sponge was left behind until a later scan or symptom reveals it.

- **Cancer and malignant tumor misdiagnosis (Lavern's Law)**: Signed in 2018, Lavern's Law applies a discovery rule to claims for the failure to diagnose cancer or a malignant tumor. Rather than the date of the error, the deadline is tied to when the patient discovered or ought to have discovered the misdiagnosis, subject to a firm seven-year ceiling. The law is named for Lavern Wilkinson, whose lung cancer went undiagnosed after a 2010 hospital visit; by the time she learned of the error, the old deadline had already expired. Note the boundary: this discovery rule reaches cancer cases only. A missed heart condition or a delayed sepsis diagnosis still runs under the standard date-of-act rule.

- **Public or municipal hospitals**: Public or municipal hospitals: Suing a public hospital, such as a facility run by NYC Health + Hospitals, adds a step and puts two separate clocks in motion. General Municipal Law § 50-e gives you just 90 days after the incident to put the hospital on notice with a formal Notice of Claim, and only then can a suit go forward, provided it lands within one year and 90 days of the events. That 90-day notice requirement is the trap: let it lapse, and the claim can be dead long before the usual malpractice deadline would have run.

- **Injured minors**: When the patient is a child, the deadline is tolled during infancy, though New York caps the extension at ten years from the exact date of when the malpractice took place.

Here is how the common scenarios line up:



New York Medical Malpractice Filing Deadlines

Statute of limitations at a glance · CPLR § 214-a

SITUATION	DEADLINE	GOVERNING RULE
Standard claim	2 years, 6 months from the act or omission	CPLR § 214-a
Continuous treatment	2 years, 6 months from the last treatment date	CPLR § 214-a
Retained foreign object	1 year from discovery	CPLR § 214-a
Cancer / tumor misdiagnosis	2 years, 6 months from discovery; 7-year cap	Lavern's Law (2018)
Public or municipal hospital	90-day Notice of Claim, then 1 year and 90 days to sue	GML § 50-e, § 50-i
Injured minor	Tolled during infancy, capped at 10 years	CPLR § 208

General information about New York law, not legal advice. The applicable deadline depends on the specific facts of a case.

What happens if you miss the deadline

After the deadline passes, a defendant can invoke it through a motion under CPLR 3211(a)(5), and courts typically dismiss the claim no matter how compelling the facts behind it are. The defendant first has to show that the filing period has already closed. Once that is done, the plaintiff must come forward with proof that an exception or a tolling provision keeps the claim alive.

A few narrow circumstances can pause the clock. Fraud or active concealment by the provider, the defendant's absence from the state, and a plaintiff's legal incapacity may extend the window. These are the exception, not the rule, and courts read them narrowly. Counting on one is a poor substitute for filing on time.

Why your real deadline is rarely a single date on a calendar

The list of overlapping rules is the whole point. Continuous treatment, the foreign object exception, Lavern's Law, the municipal Notice of Claim, and infancy tolling can each shift the deadline in a different direction, and a single set of facts can trigger two of them at once. A cancer misdiagnosis at a public hospital, for instance, pulls in both Lavern's Law and the 90-day notice requirement, which point to very different first deadlines.

That is why the honest answer to "how long do I have" is almost never a clean number. It depends on who provided the care, what condition was involved, when treatment ended, and when the harm came to light. A malpractice attorney can pull the treatment timeline and the records and identify which rule governs before an assumption about the deadline quietly forecloses the claim.

Frequently asked questions

How long do you have to file a medical malpractice lawsuit in New York?

Two years and six months from the negligent act, or from the end of continuous treatment for the same condition, under CPLR § 214-a. Exceptions can shorten or extend that period.

When does the statute of limitations start in a New York malpractice case?

Usually on the date of the negligent act, because New York has no general discovery rule. The continuous treatment doctrine can move the start date to the end of related treatment, and the foreign object and cancer exceptions can start it at discovery.

What is the statute of limitations for cancer misdiagnosis in New York?

Lavern's Law gives cancer patients 30 months to sue, measured from the point they learned, or reasonably ought to have learned, of the missed diagnosis. That window cannot stretch past seven years from the date the malpractice actually happened.

What is the deadline to sue a public hospital in New York?

You have 90 days from the incident to file a Notice of Claim, and then one year and 90 days to bring the actual lawsuit. Because the 90-day window is so short, it slips past many patients and can shut down an otherwise valid claim.

What happens if you miss the medical malpractice deadline in New York?

Once a defendant raises the expired deadline, a New York court has little choice but to throw the claim out, regardless of how strong the evidence behind it is. A few limited exceptions, such as fraud or deliberate concealment by the provider, can pause the clock, but they rarely apply.

The information here explains New York law in general terms and should not be treated as legal advice. Because filing deadlines turn on the particular details of each case, and because the law itself is subject to change, anyone weighing a potential claim should consult a licensed New York medical malpractice attorney about how the statute of limitations applies to their own circumstances.