

**IN THE SUPREME COURT OF PENNSYLVANIA  
MIDDLE DISTRICT**

LINDA REIBENSTEIN, AS THE  
ADMINISTRATRIX OF THE ESTATE OF  
MARY ANN WHITMAN, DECEASED

v.

CHARLES BARAX, M.D.; AND MERCY  
HOSPITAL, SCRANTON

No. 616 MAL 2020

Petition for Allowance of Appeal  
from the Order of the Superior  
Court

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LINDA REIBENSTEIN, AS THE  
ADMINISTRATRIX OF THE ESTATE OF  
MARY ANN WHITMAN, DECEASED

v.

PATRICK D. CONABOY, M.D.; AND  
COGNETTI & CONABOY FAMILY  
PRACTICE, P.C.

PETITION OF: PATRICK D. CONABOY,  
M.D. ; AND COGNETTI & CONABOY  
FAMILY PRACTICE, P.C.

**ORDER**

**PER CURIAM**

**AND NOW**, this 4th day of May, 2021, the Petition for Allowance of Appeal is  
**GRANTED**. The issues, as stated by petitioner, are:

- (1) Whether, in an issue of first impression and statewide importance, this Court should accept this appeal and rule that “cause of death”, as it appears in MCARE’s statute of limitations (40 P.S. § 1303.513(d) (“Statute of Repose”)), refers to medical cause of death, and not “conduct leading to death” (or legal cause of death) as Superior Court erroneously held, and

vacated a Superior Court precedential decision that is directly at odds with MCARE's plain meaning and stated purposes?

- (2) Whether, in an issue of first impression and statewide importance, this Court should accept this appeal to clarify that the statute of limitations on a wrongful death or survival act claim may only be tolled under section 513(d) of MCARE (40 P.S. § 1303.513(d) ("Statute of Repose")), where a plaintiff proves that the defendant against whom the claims are asserted (and not a third party) affirmatively misrepresented or fraudulently concealed decedent's cause of death?

Petitioner's Application to File a Reply Brief is **DENIED**.

Justice Donohue did not participate in the consideration or decision of this matter.