

MEDICAL MALPRACTICE CLAIMS

If a medical procedure did not have a successful outcome, a patient's condition worsened, or something went wrong, it does not necessarily mean medical malpractice has occurred. Medical professionals are human, and humans are known to make mistakes. The law regarding medical care does not require perfection by those in the medical field, making these cases challenging or even impossible to win.

To have a successful medical malpractice case, a Plaintiff must be able to prove that an act or an omission by a professional healthcare provider (such as a doctor, nurse, technician, or hospital) to a patient did not meet the accepted standards of care, AND the act or omission directly resulted in serious injury or death to the patient. These claims must also be filed within the court system in a certain time period, known as the statute of limitations.

COMMON EXAMPLES OF MEDICAL MALPRACTICE CLAIMS

- Birth injury
- Failure to diagnose an illness or condition
- Misdiagnosis of an illness or condition
- Failure to monitor
- Prescribing the wrong medication or the wrong dosage
- Bedsores
- Surgical error

For a medical malpractice claim to be in a Plaintiff's best interest to pursue, all of the following must be present with evidence to support the claim:

STANDARDS OF CARE;

A medical standard of care (SOC) means the level and type of medical care that a reasonably competent and average skilled healthcare professional would have provided under similar circumstances. SOC is sensitive to a specific time, specific place and a specific person. SOC commonly refers to formal or informal guidelines accepted within the medical community for the diagnosis, treatment and care of a specific medical ailment. A Plaintiff would need to demonstrate that the patient received sub-par care from a medical care professional by deviating from these established norms.

SERIOUS INJURIES & DAMAGES

Medical malpractice claims are complex cases, usually requiring numerous medical experts to review and/or provide an opinion on a patient's specific medical treatment or lack of medical treatment. Unfortunately, experts are expensive. Many experts charge high hourly rates for their time, including testimony and travel. Further, many state legislatures limit the amount of money that can be awarded to a Plaintiff. Consequently, the simple act of proving a medical malpractice case would be more expensive than the potential settlement amount of the claim, unless the Plaintiff suffered serious, life-altering injuries.

STATUTES OF LIMITATIONS

Statutes of limitations vary by state and by type of claim or area of law. A Plaintiff must have a lawsuit on file within this timeframe to have a viable claim. If the statute of limitations mandated by the state's legislature has passed, the Plaintiff's claim is completely barred, regardless of facts, evidence, or damages.

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