



YOUR GUIDE TO
MEDICAL MALPRACTICE CLAIMS

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INTRODUCTION:

Where to Start If You're Considering a Medical Malpractice Lawsuit

KBG Injury Law would like you to know we are glad you are here.

If you or a loved one has been injured following a medical procedure or related incident, you may be experiencing a variety of emotions. You may be fearful or mourning an expected outcome or loss. You may also be angry and feel betrayed by medical professionals you thought you could trust.

Each of these emotions is valid. On top of these feelings, you may be facing an uncertain future filled with questions and pain, and you may be wondering where to turn or how to proceed.

You have come to the right place.

OUR MEDICAL MALPRACTICE EXPERIENCE AND PHILOSOPHY

When potential medical malpractice or medical negligence cases take place, various opinions on how to move forward present themselves. It is important to note, however, not all medical complications, injuries or unexpected outcomes are due to doctor malpractice or negligence.



Not all medical complications, injuries or unexpected outcomes are due to **doctor malpractice or negligence.**

Extensive research, witness testimony and records are required to make a decision on the best way to proceed. Most importantly, an experienced lawyer who specializes in medical malpractice should be involved.

We prioritize getting to know and understand our clients. We listen, and we do our best to provide you with support during even the darkest of times.

We refuse to allow clients to become just another case number. Personal injuries are life-altering and devastating. Those who have suffered deserve honesty, time and respect.

KBG Injury Law understands the soul-wrenching decisions and thoughts that are required to pursue legal action against another person, even when it seems like the right thing to do. This action should be accompanied by a legal team that is highly regarded in the community for its ethical approach to all cases.

We support our clients by making ourselves available, answering questions and helping to rebuild their lives, even after devastating injuries occur. Our refusal to accept frivolous claims means if we feel your case is valid, you have no reason to doubt your decision to move forward. We are here for you.

LEARN MORE ABOUT WHAT CONDITIONS QUALIFY AS MEDICAL MALPRACTICE

If you are just starting to look into pursuing a medical malpractice case, you likely have many questions. While those questions can only be answered in full by an experienced malpractice attorney, this guide is designed to serve as a starting point.

You will gain insight into the definition of medical malpractice and understand the general conditions required for an injury or death to qualify as medical malpractice. You will also learn about specific medical malpractice cases, settlements and rulings.

Other topics the guide will cover include:

- Answers to common medical malpractice questions.
- Steps to pursue if you or a loved one has been injured.
- How to select the right medical malpractice lawyers.
- Medical malpractice defenses to be aware of.

TAKING STEPS TO PREPARE A MEDICAL MALPRACTICE CASE

After reading this guide, if you have additional questions or feel ready to proceed, KBG Injury Law will be here. Call us at 800-509-1011 or use our request form to schedule a free consultation to discuss the details of your case today.

You do not need to feel lost, alone or overwhelmed. Allow us to provide the expert legal advice and support you need. We look forward to working with you.

CHAPTER 1:

What Is Medical Malpractice?

The term “medical malpractice” is thrown around a lot. You have likely heard it before. Someone could have mentioned it regarding your situation. You might have done some research on your own.

What is medical malpractice, exactly? The definition of medical malpractice is when a hospital, doctor or another professional in the healthcare industry causes an injury to a patient through either an act of negligence or omission.

According to the Civil Justice Resource Group, medical malpractice is the third-leading cause of death in the United States. It ranks only below cancer and heart disease. It causes an estimated 25,000 to 120,000 deaths each year, which is between .8 and 1% of all hospital patients.

- 
- 1  HEART DISEASE
 - 2  CANCER
 - 3  MEDICAL MALPRACTICE

Medical malpractice is the third-leading cause of death in the United States. It ranks only below cancer and heart disease.

In addition to being a frightening potential outcome, medical malpractice is costly. In fact, over \$3 billion is spent on malpractice payouts each year.

EXAMPLES OF MEDICAL MALPRACTICE

Many circumstances and situations can be considered medical malpractice. However, the following are a few of the most common examples:

- **Misdiagnosis:** In emergency and standard medical situations, misdiagnoses can take place. Whether a test is read incorrectly or certain signs are missed, sometimes misdiagnoses lead to worsening health situations or even death. These mistakes could qualify as medical negligence or malpractice.
- **Failure to Diagnose:** Unlike a medical misdiagnosis, where an incorrect diagnosis is made, sometimes a patient is told they are fine, only to experience long-term negative health effects or death.
- **Delayed Diagnosis:** In some situations, a diagnosis may be delayed, leading to a catastrophic outcome. Depending on the situation and who is at fault, medical malpractice may be a possibility.
- **Medication Errors:** Negligence by a prescribing physician, an error in the administration of a medication or the incorrect filling of a prescription by a pharmacist that results in harm or death could be categorized as malpractice.
- **Anesthesia Errors:** Anesthesia is a complicated science. When an error is made, bodily harm, brain damage or death can result.

- **Surgery Errors:** While most surgeries are accompanied by inherent risks, sometimes injuries and mistakes that fall outside of the acceptable risk range take place. These injuries or situations could be considered malpractice in certain cases.
- **Childbirth Injuries:** During childbirth, the potential for injury to the mother and/or child is great. If a caesarean section is not performed promptly, a delivery tool is used erroneously or drugs are administered incorrectly, medical malpractice may be a consideration.

IMPORTANT CONSIDERATIONS TO UNDERSTAND ABOUT MEDICAL MALPRACTICE

Just because an incident listed above, or another that does not feel like it should have happened, occurs, does not mean medical malpractice has taken place.

One way to measure whether an injury qualifies as a case of medical malpractice is by measuring it against the Medical Standard of Care. This standard is the level and type of care a skilled and competent doctor or another healthcare professional would have provided under a similar set of given circumstances. Usually, in a lawsuit, an expert medical witness testifies to this standard.

If another doctor with similar qualifications would have taken the same actions and provided the same care if presented with the same situation, medical malpractice may be difficult to prove.

Another consideration relating to malpractice is the medical malpractice statute of limitations. In most lawsuits, when compensation is being pursued, statutes of limitations are in place. For malpractice, all states set a statute of limitations that limits the amount of time a patient has to bring a case against a medical provider or professional.

In Pennsylvania, the statute of limitations for filing a malpractice claim is two years from the time an injury is discovered — that two-year window does not begin until patient discovers something went wrong. However, there is another layer of limitations in place that complements this time window. For any cases that take place after March 2002, the timeline differs. A patient has seven years from when the malpractice act occurred to file a lawsuit.

In Pennsylvania, the statute of limitations for filing a **malpractice claim** is two years from the time an injury is discovered.



Based on this information, if medical malpractice is suspected, it is best to seek legal counsel immediately.

TYPES OF MALPRACTICE DAMAGES

Many potential clients wonder what their case may be worth and what compensation they may be entitled to. Instead of the overall figure, it is important to understand the various types of medical malpractice damages.

- **Compensatory Damages:** Compensatory damages cover the actual costs the patient was responsible for, including medical bills and lost wages due to time off work. In Pennsylvania, there is no cap or upper limit on compensatory damages.
- **Non-Economic Damages:** Not all benefits are easy to quantify. That is why non-economic damages cover intangible benefits, such as pain, suffering, loss of companionship and other negative effects due to the harm that was done. In Pennsylvania, there is no cap on non-economic damages.
- **Punitive Damages:** Unlike compensatory and non-economic damages, which cover the loss experienced by a patient or their family, punitive damages are designed to punish the medical professionals whose actions caused injury or harm. If no intentional misconduct — including malicious or fraudulent actions — took place, the cap for punitive damages is 200% of compensatory damages that are awarded.

In Pennsylvania, 25% of punitive damages awarded to the patient go into the MCARE fund to help cover costs for other patients whose compensation awards are higher than a healthcare provider's medical malpractice insurance coverage.

MALPRACTICE VS. NEGLIGENCE: UNDERSTANDING THE DIFFERENCE

You may have noticed the terms “malpractice” and “negligence” being used together, or individually. What do they mean, exactly?

Medical negligence can be defined as the failure to act with the same actions or amount of care that a comparable medical provider would have if presented with the same situation — as previously defined as the medical standard of care.

Negligence is a part of medical malpractice. Instead of being defined on its own as something separate from malpractice, negligence must be the reason an injury or death occurred to prove medical malpractice took place.

CHAPTER 2:

How Can You Prove Medical Malpractice Occurred?

It is in your best interest to work with experienced medical malpractice lawyers who understand the complexities involved with filing a medical malpractice claim.

Proving medical malpractice is not simple and straightforward. Securing legal assistance means you have knowledgeable advocates who understand case histories and can guide you with how to proceed.

QUALIFICATIONS TO PROVE MEDICAL MALPRACTICE

- 1. A Doctor-Patient Relationship Must Exist**
- 2. The Doctor is Negligent**
- 3. Negligence Causes or Directly Leads to the Injury**
- 4. The Injury Leads to Harm**

Below are qualifications necessary for proving medical malpractice took place.

1. A DOCTOR-PATIENT RELATIONSHIP MUST EXIST

For medical malpractice to even be a consideration, an established doctor-patient relationship must have been in place.

A doctor who only worked on your care for one visit — like in an emergency room — can qualify. A circumstance such as this still sets up a relationship as long as you were legally the patient of the healthcare provider. On the other hand, casual advice from a family friend who happens to be a doctor would not be legally to blame if a negative consequence resulted from that advice.

2. THE DOCTOR IS NEGLIGENT

Not all medical outcomes are positive. Sometimes additional harm and/or injuries result from necessary treatments. However, an unsatisfactory result or experience does not mean malpractice took place. The doctor or healthcare provider must have been negligent in either diagnosing or treating a condition or injury to be held liable under the law.

3. NEGLIGENCE CAUSES OR DIRECTLY LEADS TO THE INJURY

Even if a doctor-patient relationship was established, and the doctor was negligent, medical malpractice may still not be a factor in an unsatisfactory outcome. In some situations — especially if a pre-existing, masked or unknown condition existed — there may have been factors involved in the result that fall outside of a doctor's negligence.

For this reason, to prove medical malpractice, it must be proved the negligence that took place was the direct cause of the harm, injury or death.

4. THE INJURY LEADS TO HARM

Sometimes negligence does not lead to harm. On its own, negligence does not mean a patient is eligible for compensation.

Malpractice can be a possibility if certain results arise from negligence. These things include:

- Physical pain
- Medical bills that are not a part of, or are above and beyond, the standard treatment
- Mental pain
- Additional treatments
- Unexpected lost wages result from the negligence

Because of the complexities involved in proving medical malpractice negligence took place, it is usually in the best interest of the patient or the family of the patient to work with an attorney who is experienced in medical malpractice law.

CHAPTER 3:

Medical Malpractice Stories

Medical malpractice looks different for each case. To understand more about how the law works, reading case history is one way to digest the information.

Below you will find a few notable medical malpractice stories that cover doctors' misdiagnosis and mistakes, malpractice suits against doctors, medical malpractice insurance companies and other involved parties.

OPERATING IN THE WRONG PLACE

When a patient goes to a hospital for surgery, they trust the care they receive will be the care they expected. Rhode Island Hospital fell into legal trouble when, on three separate occasions, doctors operated on the wrong side of three different patients' brains. The following year, surgeons operated on the wrong hand of a patient and the wrong side of a patient's mouth while performing cleft palate surgery.

Four of the five mistakes involved experienced surgeons, adequately trained in performing the operations expected by their patients. The hospital was fined \$150,000 by the Rhode Island Department of Health and was required to install cameras while enacting other security procedures to prevent similar outcomes in the future. Arguably, each of these incidents could be considered a form of medical malpractice.

UNDERGOING ANESTHESIA AWARENESS

It may sound like a nightmare, but it is not completely unheard of. Each year, roughly 1 in 1,000 people suffer from anesthesia awareness.



One patient who experienced anesthesia awareness is Carol Wehrer. In 1998, Wehrer went in for surgery to have her right eye removed. Coming after she suffered pain from a severely scratched cornea and underwent 17 surgeries to attempt to remedy the situation, the surgery was a last resort. Wehrer woke up during surgery unable to move but able to feel pain and hear the doctors performing her operation speaking.

Wehrer's medical malpractice case was settled outside of court. Patients who suffer from anesthesia awareness do not only suffer during the incident. Many experience post-traumatic stress syndrome and require intense counseling to try to move forward and live normal lives. Cases such as these can often be considered medical malpractice.

RECEIVING AN INJURY DURING BIRTH

Birth injuries can be catastrophic, affecting the lives of the mother, child and others involved in the birth. In many cases, medical malpractice is a viable consideration — but it may not ultimately be a case where compensation is awarded.

One example of a medical malpractice birth injury that almost led to compensation for the family involved Rebecca Fielding. In 2010, after a failed homebirth, Fielding was rushed to Johns Hopkins for an emergency caesarean section, for which she had to wait over two hours. This delay was later ruled to have caused a permanent brain injury to the child.

As a result of the negligence that led to the delay that caused the injury, the Fielding family was awarded \$55 million in damages, though the court later overturned that judgment because of a technicality. The family planned to appeal this decision

As with all cases, although trauma may be tangible and painful for families and loved ones, there may not be a clear answer as to judgments and damages. This uncertainty is why it is imperative to have trusted legal counsel advocating on your behalf.

EXPERIENCING SURGICAL ERROR

Certain risks are considered “acceptable” during surgery. These risks are usually outlined on the waivers signed before procedures take place. Sometimes, the errors are above and beyond what can be considered acceptable.

Surgical malpractice is more common than you may realize.

A surgical error in 2011 during the 25th surgery performed on a six-year-old boy by Dr. Mark Holterman in Chicago left the child with an irreversible brain injury and cerebral palsy.

The child had a complicated medical history, as evidenced by the 25 surgeries. However, during this procedure, an inappropriate suturing device was used to repair the child's esophagus, which punctured the child's pulmonary artery. As a result of the physical injuries that took place, the family was awarded a \$30 million settlement, the fourth-largest payout in the state of Illinois for surgery involving a child.

Surgical errors vary from one situation to the next. This is just one example of the harm that can be caused by negligence during surgery.

SUFFERING DELAYED DIAGNOSIS

Like cases in which a doctor misdiagnosed a condition, delayed diagnoses are common. Diagnosis errors account for 29% of all successful malpractice litigation cases. Causes of delayed diagnoses include:

- A physician ordering the wrong test or tests
- Not reading the test results properly
- Miscommunication between healthcare providers
- Failing to pursue abnormal results further



Delayed diagnoses are especially prevalent in cancer cases. In 1997, a patient was awarded significant damages after a doctor failed to perform a mammogram after the patient requested it. Instead, the test was performed by another doctor five and a half months later, during which cancer was found in both breasts. It had spread to the patient's bones, making it incurable. The patient sued the doctor for the delayed diagnosis and was awarded over \$77,000 in medical expenses, \$5,000 in pain and suffering and \$5,000 for a lost chance of survival.

DEALING WITH MEDICAL MISDIAGNOSIS AND DOCTORS' ERRORS

As evidenced by the above cases, each medical malpractice case is different, and the compensation amounts awarded vary greatly from one case to another. Obtaining a professional opinion on your case before taking any action is critical.

CHAPTER 4:

What Are Typical Medical Malpractice Defenses?

There are a wide variety of medical malpractice defenses. While these may not seem relevant to you, they do demonstrate the importance of working with experienced medical negligence lawyers who are best able to fight for your case.

Malpractice attorneys have experienced similar cases and know what tactics do and don't work. They also understand and can counter common arguments used by defendants' attorneys.

Defense attorneys must uphold due process and provide their client with a fair defense. The actions of a defense attorney depend on the unique aspects of each case and legal precedents set forth by previous cases. Defense strategy may involve accepting all blame and responsibility while mitigating damages. Other defenses seek to absolve all responsibility or mitigate only partial responsibility.



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Examples of medical malpractice defenses include:

- **The Respectable Minority Principle:** Certain diseases and medical situations are rarer than others. As such, doctors who work in experimental fields or on cases that do not have specific treatment standards in place or as precedents can be considered exempt from medical malpractice.
- **Good Samaritan Laws:** Good Samaritan laws protect doctors and other healthcare workers and providers from civil liability if anything goes wrong during an emergency situation to which they attend.
- **Contributory Negligence:** If a patient acts against a doctor or healthcare professional's advice, is negligent or fails to notify the doctor of their medical history, the doctor may argue that they are not responsible for the harm that results.
- **Statute of Limitations:** Statutes of limitations put a cap on the amount of time a patient or a patient's family has to bring legal action against a healthcare provider.

WHAT MEDICAL MALPRACTICE DEFENSES MEAN FOR YOU

You may feel as though the harm done to you by a doctor's negligence is so obvious the case will rest clearly in your favor.

As such, it could be tempting to:

- Take action on your own.
- Accept awards without taking further action.
- Work with a less-experienced malpractice attorney.

Navigating the details and taking legal action on your own is certain to be overwhelming, especially if the hospital, medical provider and other party are working with an experienced defense attorney.

Working with an experienced malpractice attorney allows you the opportunity to understand your case fully and consider all details and facts. Your attorney should be prepared to counter the defenses that may come up during the process and work for your best interests.

CHAPTER 5:

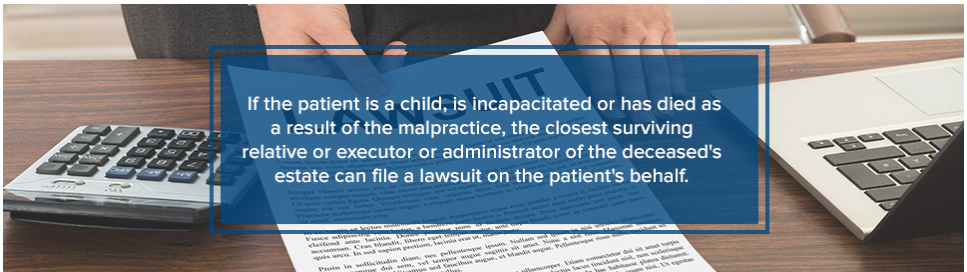
Important Information Relating to Medical Malpractice

Understanding when you might have a medical malpractice case is only part of the process. Knowing when to file, who can file and the various checkpoints involved in pursuing a case is best handled when working with a professional.

WHO CAN FILE A LAWSUIT?

Various individuals may be eligible to file a lawsuit or pursue legal action following medical malpractice or negligence, with the help of qualified malpractice attorneys. The most obvious eligible person is the patient. If the patient is able, they should be the first to take action.

If the patient is a child, is incapacitated or has died as a result of the malpractice, which is termed “wrongful death,” the closest surviving relative or executor or administrator of the deceased’s estate — in many cases these are the same person — can file a lawsuit on the patient’s behalf.



It is important to note that, in the case of death, the individual who wishes to file a suit must be appointed to do so. This appointment can be from a pre-existing agreement — such as a will or power of attorney — or after a hearing or trial to appoint the individual.

WHAT IS THE PROCESS OF PURSUING A MEDICAL MALPRACTICE LAWSUIT?

Where you should start or what should you do if you have been impacted or harmed by medical malpractice? Your first step is critical — select an experienced medical malpractice attorney to represent you. We will cover this more in Chapter 7. For now, keep in mind that you should feel comfortable and confident with your legal team.

Your attorney will guide you through the following steps:

1. They will review and investigate your medical records and the actions that were taken. A medical expert will be found to offer an opinion on whether or not negligence took place.
2. If it is determined malpractice did take place, your attorney will make a demand and handle negotiations. It is important to note pre-lawsuit settlements are not common in medical malpractice cases. However, sometimes they happen.
3. If a pre-lawsuit settlement does not take place, your attorney will file a lawsuit along with the proof that has been gathered that malpractice took place.

4. After the lawsuit is filed and the judge has approved it, the “litigation” phase begins. Each party begins to conduct discovery. This allows each side to investigate the legal claims in place and the strategies that will be used. Attorneys will communicate with each other and depose all witnesses who may be a part of the process. This process can take a year or longer depending upon the deadlines in place.

5. Next, mediation and negotiation begin. This stage is where most medical malpractice cases are settled. Sometimes cases are settled between lawyers, but sometimes a mediator is brought in to work with both parties to settle the case.

6. If the case is not settled through mediation, it will go to trial. The trial itself can last a week or more. Trials typically provide a conclusive answer as to whether malpractice took place and to what monetary figure the patient or patient’s family may be entitled. However, there could be options to appeal.

WHAT ARE THE SIGNS OF MEDICAL MALPRACTICE?

Medical malpractice law is complicated. Understanding the signs of medical practice will help you and your lawyer determine if you have a case.

It is important to note none of the following signs constitutes medical malpractice on its own. A bigger picture and research are required to uncover that answer.

Instead, these are limited signs that may be indicators of malpractice:

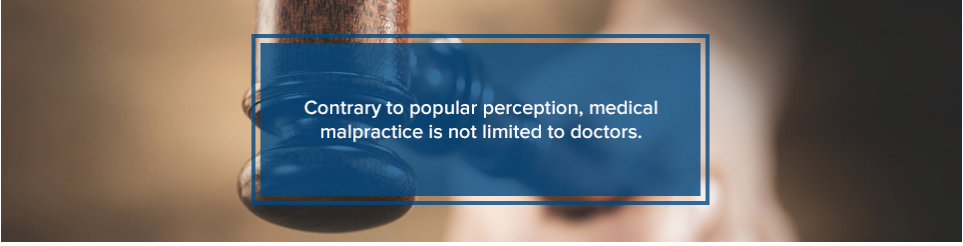
- Your condition or injury does not improve or gets worse.

- Treatment occurred before you were given an explanation or options. You feel as though you did not have a say in the process.
- You do not feel as though adequate testing was performed during your stay, prior to treatment or before you were discharged from the hospital or a provider's care.
- Follow-up did not occur, or you had trouble reaching your provider for answers after treatment.
- You obtained a second opinion that led to a differential diagnosis or prognosis than you received from your original healthcare provider.
- Something just feels “wrong.”
- You have tried to obtain your medical records and have faced delays or other trouble during the process.

Again, these are red flags — not absolute proof of malpractice. If you have encountered one or more, pursuing further action and legal counsel may be in your best interest.

WHO IS RESPONSIBLE FOR HARM DONE?

Contrary to popular perception, medical malpractice is not limited to doctors. While it may be easy to assume harm or injuries resulted from the actions of the doctor, hospitals, pharmaceutical companies or other parties may be responsible and can be sued for malpractice.



Contrary to popular perception, medical malpractice is not limited to doctors.

Note that the United States offers first responder/sovereign immunity. In emergent situations, first responders — providing they act per training standards and document each action — can be considered immune from medical malpractice.

SPECIAL REQUIREMENTS IN MEDICAL MALPRACTICE CASES

Medical malpractice cases involve different steps and requirements that are not common in other legal proceedings, such as:

- **Review panels:** In certain situations, before a lawsuit can be brought officially against a provider, it may be subject to a malpractice review panel. The panel consists of experts in the field who will review records and evidence and listen to expert testimony to determine whether malpractice took place. This step may be required before going to court, and findings can be presented during the case.
- **Expert testimony:** To prove medical malpractice, an expert opinion or multiple opinions are required. Usually, this expert has experience in the field in question and can provide insight on whether or not malpractice took place.

- Limits on damages: Certain damages awarded during malpractice cases are limited, such as punitive damages, for example. These vary from one state to another and can depend upon whether there was malicious intent or fraudulent behavior that led to the negative outcome.

LENGTH OF MEDICAL MALPRACTICE CASES

Before taking action, you may wonder how long a medical malpractice case will take to settle.

It is important to understand there is no “set” time from the filing of a medical malpractice case to its conclusion. However, Harvard Medical School puts the average length at 43 months, with an additional two years from the incident to when the case is filed.

Factors that can influence case length include:

- Multiple parties being involved.
- Complex or new legal issues arising during the discovery phase.
- Complicated medical histories or conditions needing to be sorted out before determining the cause of harm.
- There may be difficulty obtaining medical records, important information or expert testimony.

CHAPTER 6:

Steps to Pursue If You or a Loved One Has Been Injured


If you or a loved one has been injured and you suspect medical malpractice as the cause, you may feel overwhelmed and unsure of what action to take.

Caring for a loved one or trying to recover from an unexpected outcome can be time-consuming and psychologically challenging. Financial stress may add a burden that feels like too much to bear.

If you are considering legal action, the steps below will help you understand what records are needed to take legal action or to determine whether or not you or your family may be entitled to compensation.

DOCUMENT EVERYTHING HAVING TO DO WITH YOUR MALPRACTICE CASE

As soon as you suspect anything out of the ordinary, or for any major medical situations in general, it is best to document everything. It is best to document all information whenever you have any medical procedure, but especially important if you suspect medical malpractice.



It is best to document all information whenever you have any medical procedure, but especially important if you suspect medical malpractice.

Collect all the medical bills you have received and note all conversations you have had with medical facilities and insurance providers. Start a journal. Document the dates and times of each appointment and record what takes place during each one. Make notes about each conversation — what tests were ordered and so on. Note all of your symptoms. Track everything in as much detail as possible.

Then, request your records. You have the right at all times to obtain your medical records. You can submit a formal request, or your attorney can do this on your behalf.

CONTACT A MEDICAL MALPRACTICE ATTORNEY

Most importantly, do not wait to contact an attorney. You will want to contact a firm with medical malpractice lawyers, such as KGB Injury Law, and set up a consultation. You should act as soon as possible because the statute of limitations surrounding medical malpractice claims could play a factor in your case.

Be open with your attorney and honest about your condition. Explain all steps that took place during your ordeal. Listen to the medical malpractice attorney's opinions.

Your lawyer will provide guidance on the next steps for your case and will do the necessary research to determine whether there is the potential for a malpractice case or not.

You must trust your attorney — this is absolutely critical — before proceeding as advised. For a productive lawyer-client relationship, keep these tips in mind:

- Be open.
- Communicate in detail and in a timely manner.
- Get as involved in the process as your attorney needs you to be.

Each case varies as each situation is different. What happens will vary from one individual to another, based on the information you have provided.

CHAPTER 7:

Selecting the Right Medical Malpractice Lawyers

You are beginning to understand medical malpractice on a deeper level, and you feel as though it may apply to your case. You are ready to try to obtain the compensation to which you may be entitled.

Finding the medical malpractice lawyer or group of malpractice attorneys that is right for you is a critical step. This decision could make or break your case and determine the outcome of your case.

How can you know if your medical malpractice lawyer is trustworthy and experienced with a proven track record of success?

FINDING MEDICAL MALPRACTICE LAWYERS

The internet can help you begin. Start your search for a medical malpractice attorney with an online search for your area. When you find a potential attorney or law firm, search deeper. Look at online reviews, awards and any history listed on their site and other sites relating to their medical malpractice case and settlement experience.

To complement your online search, ask people you know if they are familiar with anyone who has worked with a malpractice attorney. Inquire about their experiences.

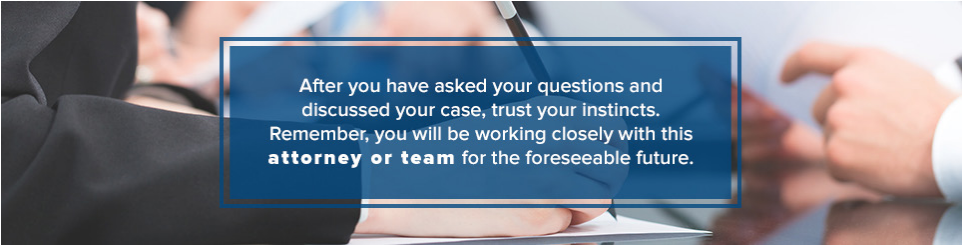
SET UP A CONSULTATION

Gather the information and records you have requested and tracked — as discussed in Chapter 6 — to your consultation. Try to go into the meeting without a preconceived notion of how that meeting will go. Be as open as possible.

Think about the questions you may have before your consultation. Consider asking about the timing of your case, the cost, how your attorney collects fees and how the process will work. Other questions to consider include:

- Will you work with a single attorney or with a group?
- Who will answer your questions and be your point of contact?
- How quickly will your concerns be addressed?
- When can you expect follow-up calls and/or email responses?
- Does the attorney think you may have a case?
- What is their experience with similar cases? What were the outcomes?

After you have asked your questions and discussed your case, trust your instincts. Remember, you will be working closely with this attorney or team for the foreseeable future. Do you believe what you have heard? Do you think you can work together?



After you have asked your questions and discussed your case, trust your instincts. Remember, you will be working closely with this **attorney or team** for the foreseeable future.

You do not need to be best friends with your attorney, but you will need to be able to trust your medical malpractice lawyer to provide the guidance and direction you need throughout your case.

DO YOUR HOMEWORK IN ALL MEDICAL MALPRACTICE CASES

Your instincts and the answers you receive from the attorney provide only part of the information you need to make what could be the most important decision of your life.

Ask your attorney for references and follow through on checking them. Ask questions and be sure you feel comfortable moving forward.

Once you select your attorney, be sure to follow up on any information they have asked you to provide, to fill out any forms you may have been assigned and complete any actions that have been assigned. Getting your case off the ground will require follow-up on your part.

CHAPTER 8:

How You Can Avoid a Medical Malpractice Issue

Medical malpractice is never the fault of the patient. What happened to you is not your fault. Remember this at all times.

However, sometimes — to avoid certain malpractice cases — there are proactive steps you can take to try to avoid negligence.

SELECT DOCTORS WHO HAVE A HISTORY OF QUALITY CARE

Selecting the right care provider for your medical issue is absolutely critical. One percent of doctors account for 32 percent of all medical negligence malpractice claims.



This statistic is staggering. It means a very low number of doctors account for a large percentage of harm. This number can be explained by the fact that certain specialties include greater risk than others due to the patients and diseases they work with.

According to the statistics, there a small number of doctors who account for a disproportional number of malpractice incidents within even those high-risk specialties.

If you have done your research, you may feel confident your doctor is the best for your case. But research can be deceiving. A “successful” track record may mean a doctor simply takes on easier cases to keep their ratings high. A “high mortality” rate may be indicative of a good doctor who is willing to take on more difficult cases. Consider these aspects of the data as you evaluate your potential care provider.

A **“successful” track record** may mean a doctor simply takes on easier cases to keep their ratings high.

A **“high mortality” rate** may be indicative of a good doctor who is willing to take on more difficult cases.



To research a doctor:

- Look at your state’s online medical licensing board’s records online.
- Check a potential doctor against disciplinary actions and lawsuits.
- If the details seem unclear, run a search using a standard search engine. Put in the doctor’s name and the terms you find in the board’s records.

If a doctor's record seems to indicate they have practiced in another state, check that state's record as well. Often disciplinary records do not transfer from state to state.

CHOOSE A DOCTOR

Set up an initial appointment with the doctor and ask questions. Have your records transferred before the appointment, so your doctor has up-to-date and accurate information.

Then, trust your intuition. Did you feel as though your concerns were addressed or the doctor was familiar with your condition and symptoms? Did you feel as though this is the right practitioner for your situation? If something feels "off," it may be best to look elsewhere.

STAY INFORMED

Become a participant and advocate in your healthcare and treatment. Be sure to ask questions, do research and ask about specific treatment and testing options. If your questions go unanswered or you feel unsure, keep asking until you receive answers.

OBTAIN SECOND AND THIRD OPINIONS

If you are starting a new treatment or searching for answers, there are proactive steps you can take to try to protect yourself as much as possible. After receiving a diagnosis and treatment plan from one provider, obtain a second and third opinion to understand all of your options and confirm your diagnosis.

In some cases, time may not be on your side, and you may not have the ability to do research before a procedure takes place. But whenever possible, this system of pre-checks allows you to move forward with confidence.

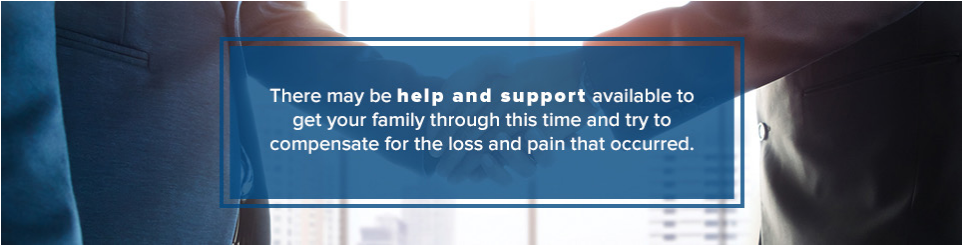
CONCLUSION:

How to Move Forward After Medical Malpractice Is Pursued

Medical malpractice can result in life-altering, devastating consequences for both patients and their families. If you or a loved one has been injured, getting through one day at a time, let alone pursuing legal action, can feel overwhelming and like more of a challenge than you ever imagined.

We hope this guide has answered your questions while providing information and guidance you need to move forward.

The most important takeaway is you do not have to suffer alone or in silence. There may be help and support available to get your family through this time and try to compensate for the loss and pain that occurred.



There may be **help and support** available to get your family through this time and try to compensate for the loss and pain that occurred.

MEDICAL MALPRACTICE: AN OVERVIEW

This guide was not designed to direct you to take a certain action or to tell you what is right for you or your family. Instead, it was designed to provide the information you need during a dark time.

This information shares more about what constitutes medical negligence and medical malpractice, and what it takes to prove they took place. The case studies illustrate the various situations that constitute malpractice — small errors sometimes qualify.

We have shared information relating to common malpractice defenses, so you are prepared to move forward armed with the information you need to understand what to expect and what a case may look like. The information that has been included on selecting the right attorney and a doctor are designed to be helpful and to help you navigate what may feel like an uncertain future.

KBG INJURY LAW IS HERE FOR YOU

We believe obtaining information is the first step in moving forward after a medical malpractice incident takes place. That is why we have put together this guide. But we are here in more than an online guide. We are here to partner with you as you move forward. We can provide insight and guidance, and ensure you receive the compensation you may be entitled to.

Call us today or use our online form to set up a free consultation. We are available to review the details of your case, to answer your questions and to put our legal experience and malpractice expertise to work for you. We look forward to working with you.

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