



Washington State Medical Malpractice Claims.

Key Considerations

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Disclaimer: This guide is intended for educational purposes only and does not constitute legal advice. For advice on a specific legal matter, please consult a qualified attorney.

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Medical malpractice cases are complex and require substantial time, resources, and expertise.

This guide from Menzer Law Group is designed to help individuals understand the critical components of a compelling medical malpractice case, what must be proven, and how a dedicated attorney can support you throughout the process.



Medical malpractice happens when a healthcare professional's failure to meet the standard of care causes patient harm.

To pursue a medical malpractice claim, it's essential to understand the elements that make a strong case.



A successful medical malpractice claim requires proof of the following four elements:

01

DUTY OF CARE:

The healthcare provider owed you a duty of care. A duty is typically established when the provider agrees to treat you.

02

BREACH OF DUTY:

The provider failed to meet the accepted standard of care. This means the care they provided deviated from the reasonably prudent standard of care that competent providers in that same specialty area would have provided in similar circumstances.

03

CAUSATION:

You must demonstrate that the provider's breach of the applicable standard of care directly caused your injuries. This is often one of the most challenging elements to prove, as it requires a clear link between the breach and the harm suffered.

04

DAMAGES:

Finally, you need to prove that you suffered significant harm—such as severe physical injury, long-term disability, substantial financial loss, and profound emotional distress—as a direct result of the provider's actions. The provable extent of these damages is critical in determining whether a case should move forward to litigation.



Medical malpractice cases are among the most complex personal injury claims, demanding a deep understanding of legal and medical principles. Due to their complexity, they require a substantial investment of time, personnel, financial resources, and expertise. Attorneys must be able to navigate an extensive web of medical records, healthcare information, and often conflicting opinions from a wide variety of medical, vocational, and economic experts, which adds to the demanding and time-intensive nature of these cases.



Clients often seek legal help, expecting significant financial relief, and hoping for a quick settlement. However, it's essential to understand that medical malpractice cases often take years to resolve even when liability appears clear. This timeline reflects the need for detailed investigations, expert consultations, and the numerous and time-consuming court procedures that are typically required when you successfully litigate a strong medical malpractice case.

In addition to the amount of time likely involved, the complexity of the case and the severity of the injuries and damages are significant factors in determining whether a claim proceeds. Success doesn't just depend on proving medical negligence; it also requires showing that this negligence was the direct cause of severe harm. Attorneys must evaluate each case carefully to determine if it warrants the significant amounts of time and resources required to successfully litigate the case.

When multiple healthcare providers are suspected of malpractice, it further complicates the matter, as attorneys must assess the varying degrees of responsibility for each provider with the understanding that each healthcare provider will have their own lawyers, their own set of experts, and their own reasons for trying to delay the

To build a viable medical malpractice case, attorneys must establish that the harm caused by the healthcare provider's negligence is not only directly linked to a breach of the standard of care but is also substantial enough to justify pursuing a claim. Significant and/or permanent injuries—such as loss of an important bodily function, chronic pain, long-term disability, or significant economic losses—are often required to move a case forward. This requirement reflects several realities of medical malpractice claims:



Extensive Evidence Gathering:

These cases require a comprehensive collection of evidence, including securing all the relevant medical, imaging, and billing records, engaging in written discovery procedures to obtain needed information from the defendants in a case, and interviewing or deposing the defendants, other pertinent witnesses in the case, as well as the experts retained by all the parties.



Complex Expert Testimonies:

Proving that a provider breached the applicable standard of care, that such a breach directly caused the injuries, and that the patient has suffered severe or permanent injuries require the testimony of multiple retained expert witnesses, including doctors, nurses, therapists, as well as vocational and economic experts.



High Financial Costs:

Pursuing a malpractice case often involves a substantial financial investment, including the costs of gathering all necessary evidence, the significant fees paid to expert witnesses, court reporter expenses, and all attorney and staff time involved in protracted litigation. Due to this considerable investment of time, fees, and costs, attorneys generally must focus on cases where the injuries and damages are significant enough to justify the years of effort and investment that are required. This approach doesn't diminish the validity of cases involving less severe injuries but instead reflects the practical need to allocate resources where they have the best chance of securing a successful outcome for the client and the law firm.

THE REALITIES OF TAKING A MEDICAL MALPRACTICE CASE TO TRIAL

The litigation process for medical malpractice claims can be extensive, often involving multiple stages such as filing the complaint, written discovery, depositions, legal motions, settlement negotiations with mediation or trial preparation, and a jury trial. Understanding these various stages of litigation can help set expectations and clarify what may be needed or expected from you throughout the process. In the future, we may provide additional resources to outline these steps in more detail for new and prospective clients.

Finally, clients should understand that jury trials in medical malpractice cases present additional challenges. When the evidence of malpractice, causation, or damages is not strong, defendants and their insurers will often choose to let a jury decide the case because they know that juries tend to give doctors and other healthcare providers the benefit of the doubt in close cases. For this reason, only about 20% of medical malpractice cases that proceed to trial result in a verdict favoring the plaintiff. In some counties in Washington state, this percentage is significantly lower. Given these odds, attorneys must carefully assess the strength of the evidence and the likelihood of success at trial. This evaluation process ensures that potential clients have realistic expectations and focuses law firm resources on those cases with the highest potential for a positive outcome.



WHAT YOU'LL NEED TO PROVE YOUR MEDICAL MALPRACTICE CASE

The burden of proof in a medical malpractice case lies with you, the plaintiff. Here's what you'll need to meet that burden:

Medical Records and Documentation:

Detailed complete records are crucial. These documents provide a comprehensive overview of the treatment you received and can provide the foundations to prove deviations from the standard of care and the resulting injuries and harms.

Expert Testimony:

Medical experts play a vital role in establishing that your provider's actions fell below the accepted standard, and that such breaches caused you significant harm. Expert testimony is also needed to establish the severity or permanency of your injuries, and how those injuries impact your employment and the quality of your life.

Evidence of Damages:

Financial records, tax returns, hospital bills, and documentation of lost wages or reduced earning capacity are needed to demonstrate the financial impacts of the malpractice on your life. The testimony from your treating doctors, therapists, and mental health professionals can document the physical, mental, and emotional pain and suffering that you have experienced.

An attorney with extensive expertise and experience in medical malpractice can be invaluable in navigating the complexities of these cases. Here's how they can support you:

Evaluating the Strength of Your Case:

A highly skilled attorney will thoroughly evaluate whether your case meets the stringent legal and medical criteria required for success. Given the significant time, expense, and resources involved in medical malpractice cases, attorneys must focus on those with a strong potential for a favorable outcome. This ensures that every case taken is backed by solid evidence and has the best possible chance of winning the compensation that the client deserves.

Gathering and Analyzing Evidence:

If an attorney reviews your claim and believes it has potential, they will help collect medical records, consult and retain experts, and assess the evidence needed to build a strong and compelling case. While these steps do not guarantee the lawyer will take on the case, they are essential to assessing the strength of your claim and determining whether it can move forward.

Representing You Throughout the Process:

Medical malpractice cases are highly complex and often require multiple witness and expert depositions, extensive legal filings, and intricate negotiations. Having an experienced and compassionate attorney by your side is crucial to successfully navigating these challenges. A highly skilled attorney will manage all aspects of the litigation process, from analyzing the medical evidence to securing highly qualified expert witnesses, filing court documents, and negotiating settlements, while keeping you informed and supported at every step. Their experience and expertise ensure that your case is handled with the care and attention it deserves, giving you the best chance for a favorable outcome.



If you believe you have a solid medical malpractice case and are ready to consult with an attorney, being well-prepared can help ensure your case is evaluated thoroughly and efficiently. Here are vital items to gather:

Detailed Medical Records:

If possible, collect all relevant medical records that document the care in question as well as your injuries and current conditions. These documents are crucial for evaluating any deviations from the standard of care and your injuries.

Timeline of Events:

Create a detailed timeline of your medical care, highlighting when you first sought treatment, when any procedures were performed, and when you began experiencing complications or harm. This helps the attorney understand how the malpractice may have occurred.

Names of Healthcare Providers Involved:

Include all doctors, nurses, hospitals, or other healthcare providers involved in your care. The attorney must know who played a role in your treatment and to what extent.

Description of Harm or Injury:

Be specific about the harm or injuries you have experienced, especially if the injuries are severe, permanent, or have led to significant financial loss. Severe injuries—such as those resulting in long-term disability, chronic pain, or permanent loss of function—play a critical role in determining whether your case can be successfully litigated. Likewise, substantial financial losses, such as extensive medical bills or loss of income, may also be an essential factor.

Correspondence and Documentation:

Gather any communications with healthcare providers, including emails, letters, or patient complaints, as well as billing or insurance statements that reflect the financial impact of your treatment. These documents provide important context for your case.

Expert Opinions (If Available):

If you've consulted with medical professionals who believe malpractice may have occurred, include their opinions. Supporting expert opinions can strengthen your case by confirming your care fell below the accepted standard.

When you contact an attorney about a potential medical malpractice case, clear and concise communication can significantly impact how efficiently they are able to evaluate your claim. Here are a few tips on what information to convey succinctly:



Present Key Points of Your Claim:

Briefly outline your claim in relation to the four essential elements of medical malpractice: duty of care, breach of duty, causation, and damages. This helps the attorney quickly understand the core aspects of your case.

Highlight Significant Details:

Share any essential facts or substantial evidence that supports your claim, such as precise indications of negligence or substantial harm. This will allow the attorney to gauge the potential strength of the case right from the start.

Assure Readiness:

Let the attorney know what essential documentation you have prepared—such as medical records, a timeline of events, names of providers, and any relevant correspondence—and that you're ready to share these upon request.

Be Open About Goals and Expectations:

If you have specific expectations for the outcome, such as immediate financial relief or a desire for a trial, convey this upfront. Open communication about your goals helps the attorney determine if they're the right fit for your case.



Injured people may hesitate to pursue a legal claim if they believe it's not "big enough" or won't result in substantial financial recovery. It's natural to wonder whether an attorney would take on your case under these circumstances.

Simply put, experienced medical malpractice attorneys focus on cases with the greatest potential for success. These cases typically involve strong and clear evidence of negligence, causation, and significant harm. Due to the very substantial time and financial resources required to pursue most medical malpractice claims, attorneys prioritize cases with the best chance for a positive outcome.

Investment of Time, Money, and Resources:

Medical malpractice cases require a significant commitment, often taking years to resolve. When an attorney decides to take on a case, they are committing hundreds of hours of attorney and staff work and tens of thousands of dollars or more of litigation costs over a long period of time. Medical malpractice lawyers typically work on a contingency fee basis, meaning they only get paid if you win. It's rare for a medical malpractice case to conclude in under a year, and because of the sizeable investments of time and money involved, experienced attorneys must be highly selective to ensure their resources are used where they can make the greatest impact.

Criteria for Case Selection:

In recognition of the significant investments required, attorneys select cases that present clear and strong evidence of malpractice and causation, substantial harm, and strong potential for success. This doesn't diminish the merits or importance of other cases but reflects the practical realities of how these complex claims must be handled.

Additionally, certain law firms may specialize in particular types of medical malpractice cases, often based on the firm's experience and established relationships with expert witnesses. For instance, a firm with experience successfully litigating orthopedic surgery or birth injury cases may be more likely to accept similar cases because they already have the necessary expertise, resources, and connections with relevant experts.

Firm Size Can Also Play a Role:

Similarly, firm size can also play a role: larger firms may manage a greater volume and variety of cases, while smaller firms with fewer attorneys may provide more highly personalized attention to a smaller number of clients. All attorneys are ethically obligated to manage a reasonable caseload to ensure diligent and competent representation of their clients' interests.

A Note on Case Volume:

A well-respected medical malpractice firm may receive hundreds of inquiries monthly but accept only a tiny percentage of those cases. For example, a firm may receive 200 inquiries in a month and choose to accept only one or two of those cases due to factors such as the relative strength of the malpractice claim, the available documentation of the medical error, the severity of the injuries, and the amount of past and future financial losses. Understanding this high level of selectivity can offer some perspective on the rigorous criteria that guide

ADDITIONAL RESOURCES IN WASHINGTON STATE

If some attorneys have declined your case, but you still feel you have a valid medical malpractice concern, these resources may provide the assistance you need:

King County Bar Association (KCBA) Lawyer Referral Service

Website: [KCBA Lawyer Referral Service](#)

Phone: (206) 267-7100.

Services: Offers referrals to attorneys who may be able to assist with your medical malpractice case.

Charity Care

Website: [Washington State Charity Care Law | Washington State](#)

Services: Low-income Washington residents needing financial assistance for medical costs may be eligible for free or reduced-cost care at Washington state hospitals. The state's charity care law requires hospitals to provide financial assistance for eligible low-income patients, including insured and uninsured individuals. Families and individuals making up to 400% of the Federal poverty level may qualify.

County Bar Associations

Website: [Legal Help by County](#)

Services: Your local county's bar association may offer a variety of legal resources.

Hospital Patient Advocates

Contact: Check with the hospital where you received care; most hospitals have dedicated patient advocacy departments.

Services: Advocates can assist you in filing grievances or navigating issues related to your care.

Northwest Justice Project

Website: [Northwest Justice Project](#)

Phone: CLEAR Hotline (for free legal assistance): (888) 201-1014 (Monday - Friday, 9:15 AM - 12:15 PM)

Services: NJP does not directly handle medical malpractice cases but may provide general guidance and referrals to other resources.

Office of Behavioral Health Advocacy (OBHA)

Website: [HOME | OBHA](#)

Services: OBHA provides consulting, resources, advocacy, and mediation for Washingtonians engaged in behavioral health services and can address complaints against behavioral health providers and facilities.

QLaw Foundation of Washington

Website: <https://www qlawfoundation.org/>

Services: The QLaw Foundation promotes the dignity and respect of 2SLGBTQIA+ Washingtonians in the legal system through advocacy, education, and legal assistance. Their Legal Clinics provide free consultations with volunteer attorneys to help clients understand legal issues, review forms, and provide appropriate referrals.

The Attorney General's Office of Military and Veteran Legal Assistance

Website: [Legal Assistance for Veterans & Military Personnel | Washington State](#)

Services: Connects qualifying military service members and veterans with volunteer attorneys and civil legal assistance programs for select civil legal issues.

Washington State Bar Association's Moderate Means Program (temporarily paused)

Website: [Moderate Means Program Clients](#)

Services: The WSBA's Moderate Means Program helps those who don't qualify for free legal aid to find affordable assistance.

Washington State Department of Health (DOH)

Website: [File a Complaint | Washington State Department of Health](#)

Phone: (360) 236-4700

Services: Allows you to file complaints regarding healthcare providers or facilities if you believe a provider acted negligently.

NEXT STEPS FOR YOUR MEDICAL MALPRACTICE CLAIM

Medical malpractice cases require detailed evidence, expert testimony, and a deep understanding of the legal process. Whether you're exploring your options for the first time or have already had your case reviewed, we hope this guide provides you with valuable insight into the complexities involved.



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