

Making sense of medical malpractice



What is medical malpractice?

It happens when a medical professional breaches their duty to their patient by deviating from the accepted standard of care, which causes the patient harm. Examples include surgical errors, failing to timely diagnose and treat a condition such as cancer, or giving too much anesthesia, which can cause respiratory failure or death.

But medical malpractice is tricky because not every poor outcome or mistake is actionable medical malpractice. Some results are considered accepted or unavoidable risks of the procedure. For example, if a patient suffers esophagus damage while being intubated in an emergency situation, that will likely be considered an accepted risk of the procedure.

Sometimes there *is* negligence, but ultimately, from an economic standpoint, it is sadly just not enough to go through a medical malpractice case. Tort reform has made medical malpractice litigation extremely expensive so if you fully recover and have low damages in terms of bills, it's often not economically feasible.

This is why it's always important to discuss medical malpractice with an experienced and trusted attorney. Trust me; you can't do it alone.

Does malpractice litigation raise the cost of health care?

No, this is a false narrative used by the insurance industry and medical lobbyists to affect tort reform to limit medical malpractice litigation.

Multiple studies over the years have shown that the narrative falls flat because even in states with medical malpractice limitations and caps, the malpractice premiums haven't changed much! What's more, there have been no significant findings regarding the impact on the cost of health care.

On the flip side, medical malpractice is prolific. One Johns Hopkins study found that more than 250,000 people died in 2018 due to medical errors, making it the third leading cause of death in the United States. Tort reform and stigmatizing medical malpractice litigants actually keeps meritorious lawsuits out of courtrooms. And remember: when lawsuits go away, the bills *do not*. The victim lives a life of medical debt, or the costs are passed onto tax payers through Medicare and Medicaid.

What's the medical malpractice process like in Pennsylvania?

It's a very time-consuming endeavor because you have to prove your case before you can file it in the court system. You have two years to get everything together, but ordering the records alone can take six months. If there's a death and you need to open an estate, that also takes time. Then you have to get an independent medical expert to review all the evidence and issue a certificate of merit before you can file.

Do the majority of inquiries you receive turn out to be medical malpractice?

Thankfully, most of the calls I get are from people who are extremely frustrated with their care. That being said, doctors are not bad people and most care is actually above the standard. I encourage everyone to be their own medical advocate



and remember that you are owed a duty of "informed consent," meaning you understand and consent to the medical care you are receiving. If you don't, *ask questions*. If you're uncomfortable with the answers, get a second or third opinion.

Think you've experienced medical malpractice?

Don't delay, call an attorney today! Collectively, all of the pre-lawsuit work can take up to—and in some cases more than—a year. Wiggins Law can break down your options so you feel empowered going forward, even if you don't have a case.

ASK JAMIE:

Curious if you have a medical malpractice case on your hands? Navigating the process in Pennsylvania can be confusing if you don't have the right team in your corner. Metro spent time with Jamie T. Wiggins, Esq. of Wiggins Law to break down the ins and outs of medical malpractice.