

FUSCO & MACALUSO

MEDICAL MALPRACTICE

Medical Malpractice



Medical malpractice lawsuits concern any type of negligence by a physician, hospital or other health care professional which causes a patient physical or emotional damage to health.

Medical malpractice is limited to negligence occurring during the course of providing or giving medical treatment, or health care- but the basic legal issues are the same as the legal elements in ordinary negligence.

WHEN THE MEDICAL TEAM OR A PROFESSIONAL HEALTH CARE PROVIDER FAILS or harms, this is what you should do immediately.

1. Obtain all of your medical records as soon as possible.
This avoids changes or falsification being made in your records.

2. Obtain an independent medical evaluation.
An experienced and knowledgeable attorney such as **Roy Macaluso**- will advise you on this medical evaluation. This is one of the most important steps in a medical malpractice case.

3. Document your experience.
Write everything that you can remember about your experience.
Include the symptoms you spoke of, any actions they recommended in response and any and all communications with staff, including voicemails.
If any decline is visible take photos, and have before photos on hand as well.

4. Keep Track and Keep ALL Financial Records.
It is important that you and your attorney and the courts see an accurate picture of the financial impact of your injuries. Keep a record of any financial damage you have incurred due to the incident including: Lost wages, Additional medical care, more procedures, Travel expenses for medical care, Therapy, counseling, or any other services required to help ease the emotional and psychological trauma.

5. Keep charges or receipts for special equipment needed to deal with disabilities or impairment
or In-home care, include housekeeping and childcare.

6. Journaling.
Keep good account of any family member's or your personal pain and suffering and loss of enjoyment of life. Keep a journal of how the medical malpractice has affected you and your daily life.

7. Document any and all psychological and emotional impact, such as depression, anxiety, fear of seeking additional medical care: Cognitive, memory, and speech difficulties, Social impact- especially in cases of disfigurement.



8. Do not forget the Impact to your relationship with your loved ones and spouse (including sexual dysfunction).

Medical professionals are not expected to be perfect, but there may be poor results from treatment that does not amount to malpractice.



Health care providers are judged in comparison with similarly trained and qualified providers of the same class in the same community and in the same field of medical specialization. Likewise, a hospital owes their patients a duty of ordinary care to provide equipment and facilities reasonably suited to the intended uses and such are in general use in similar hospitals under similar circumstances. The injured patient must then prove that the health care provider's breach of the standard of care was a proximate cause of the injuries to the patient. In other words, there must be a close connection between the action of the health care provider and the harm to the patient. Finally, you have to show what damages resulted from the alleged mistake. This may include medical bills,

lost wages, pain and suffering, etc.

Within sixty days of the commencement of a medical malpractice action, the plaintiff must file an affidavit by an appropriate licensed person stating that there exists a reasonable probability that the care, skill, or knowledge exercised in the treatment fell outside acceptable professional standards or treatment practices.

Who can be held accountable for the medical malpractice?



Generally, a medical malpractice claim can be brought against a licensed health care provider. This can include a person, corporation, facility or institution licensed by the state to provide health care or professional services, or an officer, employee, or agent thereof acting in the course and scope of his employment. Claims can be brought against physicians, dentists, nurses, therapists, technicians, hospitals, and pharmacists, nurses, therapists and other health care providers, and the hospitals or clinics they work for may also be held responsible for a failure to meet accepted standards of care.

Does signing a consent form waive my rights to file a lawsuit for medical malpractice?

Signing a consent form in and of itself does not waive your rights.

How much can I expect an attorney to charge to handle a medical malpractice case?

Most attorneys who believe a case has merit will take the case without payment up front. When you and your attorney agree to a contingency fee, the attorney must provide you with a signed copy. Many attorneys will decline a case unless there is potential for a substantial verdict or settlement.

What damages can be recovered for medical malpractice?



As a victim of medical malpractice, you can sue for your injuries and all of the direct consequences of those injuries. Actual damages refers to the amount of money it would take to fully compensate you and place you in the same position you would have been in had the injury never taken place. Loss of earning capacity is also allowed when the patient proves he or she is less able to earn a living as a result of the

injuries caused by the malpractice.

You may also be entitled to be awarded for physical pain and suffering, mental and emotional suffering, physical impairment, inconvenience, disfigurement, loss of

enjoyment of life, loss of consortium (disruption of your personal relationship with your spouse), etc.

There is no definite standard of calculating reasonable compensation for these types of damages. Any settlement will be reduced if there appears to be a good chance that the claim will not be successful. Other factors that may reduce the damages include past medical history, pre-existing injuries, and prior claims history.

Considerable compensation may be commanded if your injuries are severe requiring extensive medical treatment, absences from work and permanent injuries. This is especially true if you were a healthy, productive, young worker prior to the accident. That is because an important factor in the value of your claim is the difference between your quality of life before the accident as compared to after the accident.

How can I determine how much my claim is worth?

Attorneys are prohibited from promising that they will obtain a certain amount of money for you. For purposes of settlement, a claim is valued upon an estimate of what a jury would likely believe the case to be worth, taking into account the severity of the injury, the effects of the injury on your life and the negligence of the other party.



Please consult the expert advice of
Roy R. Macaluso, ESQ.

A HIGHLY EXPERIENCED MALPRACTICE ATTORNEY
FOR INFORMATION REGARDING YOUR LEGAL RIGHTS AND
OPTIONS IN THESE MATTERS.

CALL 973-779-1163.