

Anatomy of a Medical Malpractice Case



You have an important story to tell

Let our voice tell your story with power, clarity and effectiveness

Pacific Medical⁺Law
MEDICAL MALPRACTICE

Our Litigation Team

Why choose our team? We provide more than legal expertise and professional experience. We bring careful listening, understanding, and a passion for what is fair and right to our advocacy.

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This brochure is provided as a resource for people who believe they may have a medical malpractice or hospital malpractice claim and would like a more detailed explanation of the process. Do not apply any of this information without first discussing it with a lawyer.

Our Commitment to You

If you or your family member has been injured by what may be a hospital or medical error call us to understand your rights, as you may be entitled to compensation. When you call us for help, we make these commitments to you:

1. Listen

At the beginning, we will take the time to listen and understand your story including the events leading to your or your family member's injury, and the impact on your family's life.

2. Conduct Preliminary Review and Evaluation of Your Case

Unfortunately, medical care sometimes turns out badly through no one's fault. But if we think there may have been an error in your care we will conduct a preliminary review and evaluation. This step is to decide early on if your case meets certain requirements and whether it would be in your best interests to pursue a lawsuit. At the conclusion of our preliminary review and evaluation, we will clearly explain our opinion to you and answer any questions you may have.

3. Advocate on Your Behalf

If we pursue your claim on your behalf, you can be sure that your voice will be heard and that your rights will be protected. We have the extensive experience, resources and legal knowledge required to prepare your case with the goal of obtaining maximum compensation for you.

4. Be Accessible and Responsive To You Throughout The Process

We will keep you informed throughout the process and you will always be free to contact us directly to discuss any new developments, concerns or simply to check in. We have years of experience assisting people who have been injured and their families. We understand the struggles and frustrations that you may experience along the way.



When (and when not) to consider a medical malpractice suit

Because of the costs involved, a medical malpractice case should only be started if it involves a serious injury. That usually means a permanent injury that will have an ongoing impact on the plaintiff's income and/or need for ongoing care. Even when a person endured considerable pain and suffering, if he or she is now fully recovered it may not be economically practical to pursue the case.

In British Columbia, if the malpractice has resulted in death, compensation is generally limited to the economic loss suffered by people who were dependent on the deceased, in other words, the loss of that person's financial support. Tragic as the death of a child or an elderly person may be, it rarely gives rise to a case that can be pursued cost effectively.

How compensation is awarded

The amount of compensation that the court awards is based upon the extent and effect of the injury suffered. The change in the person's lifestyle, ability to earn a living and any special care equipment or assistance such as wheelchairs, attendant care or housekeeping help are all factors in assessing the size of an award for damages.

When you contact us as a potential client

When you contact us, we consider whether you have a legal problem that we can help you with or if you need a referral to another organization. We consider the severity of your injury and when the alleged malpractice or mistake occurred. There are strict time limits to begin a lawsuit. For example, in British Columbia an injured adult can have as little as two years from the date of the mistake to begin a lawsuit. A child or a person under a disability has a different time limit to begin his or her lawsuit. Because of these complexities, it is important that you seek legal advice as soon as possible after your injury. Acting too late may make it impossible to prepare and initiate a lawsuit before your time limit expires.

Review and analysis

Our next step is to review your medical and hospital records. After reviewing these records we will contact you to discuss our initial impression and, depending on our evaluation of the case, retain a medical expert to provide a preliminary medical opinion. At the conclusion of our preliminary review and evaluation, we will clearly explain our opinion to you and answer any questions you may have.

Our fee agreement with you

If after our preliminary review and evaluation we believe your case has a reasonable prospect of success and a sufficient potential award we are usually prepared to enter into a contingency fee agreement with you. In a contingency fee agreement our fee is a percentage of the amount we obtain for you. In addition to the percentage fee there are out-of-pocket expenses and applicable government taxes on the fees and expenses. We will clearly explain the fee agreement to you and answer any questions you may have about it.

Our step-by-step approach

During the evaluation and litigation process there are many times when it is necessary to review and decide whether your case still appears to have merit. We re-evaluate the case at every step along the way to make sure it is on track. We involve you at critical points in this process and get your instructions for key decisions.

Here's what happens as your case is prepared and submitted for trial

The work of preparing a case for trial is extensive and time consuming. It also places certain responsibilities on you. These are the major steps in taking your case to court:

1. We file the appropriate documents in court to start the litigation and the other side files their documents.
2. A trial date is obtained from the court registry. It can take several months or longer to get the trial date and when the date is given it may be up to two years in the future. In

B.C., this sets the time period in which pre-trial procedures must be completed. In some provinces, the trial date can only be obtained after pre-trial procedures are completed

3. We gather and review all of the relevant medical records, including records of doctors who have treated you for the injury, and in some circumstances, records that predated the injury.
4. Each side discloses relevant documents in their possession.
5. Each side conducts examinations for discovery. You will be questioned under oath by the lawyers for the doctors and/or hospital being sued. This produces a transcript that can later be used at trial if, for example, evidence is given at trial that is inconsistent with what was said at the examination for discovery. We conduct, usually at a different time, similar examinations of the defendants. Frequently, it is only after these examinations that we have enough information to seek a final opinion from medical experts and determine if the case is still worth pursuing.
6. We gather expert evidence about your injuries. Expert evidence may include the opinions of doctors and other professionals about how you should have been treated and about your current and future health. Experts may also be used to determine your loss of future earnings and opportunities and the cost of future care for you. You will probably have to see a number of these experts, some of them will be retained by us and others will be retained by the defendants.
7. Both sides exchange expert reports. In BC, the parties must provide each other with copies of the expert opinions they will be relying upon 84 days before trial. If a case settles out of court, it is usually only after this exchange of expert reports has taken place.
8. While cases are sometimes settled, medical malpractices cases frequently go to trial, so we prepare our cases on the assumption that a trial will be necessary. In British Columbia, these cases are frequently tried by a judge alone, rather than by a jury.
9. Following a decision at trial, the losing side may appeal to an appellate court. In BC that is the British Columbia Court of Appeal. From there, a case can be further appealed to the Supreme Court of Canada, but that court can decide whether or not it will hear a case and it is a rare case that goes that far.