

Malpractice, What Is It and What Are Your Rights?

Statistics show that medical malpractice results in 200,000 injuries and/or deaths per year in the US. However, not every malpractice case makes it to the desk of a lawyer that will work in your favor. Choosing **Shaked Law Firm** when you've been injured due to medical malpractice is the first step to ensuring you won't just be a statistic, but let's look at everything else that goes into the law working in your favor.

You may have heard the term "*medical malpractice*" used prominently on television shows such as *Law and Order* or fan favorite *Grey's Anatomy*, but thankfully for most of us that's the only place we'll ever hear it. Unfortunately, there are some people who have suffered a great deal of bodily injury at the hands of a medical professional they trusted to care for them when they were sick or already injured in an accident. This is where the term "*medical malpractice*" is used outside of the overdramatized world of television. So, what does "*medical malpractice*" actually mean, and most importantly, what does it mean for you as an injured patient?

The term **medical malpractice** is defined as: *improper, illegal, or negligent professional activity or treatment, especially by a medical practitioner*. So how do we define what's considered "improper, illegal, or negligent professional activity or treatment"? Luckily for us, the state of Florida had laid out guidelines for protecting your patient rights.

Before we get to that, let's review the Patient Bill of Rights. You may have been given a form with these rights printed on it as a new patient at a doctor's office, but if you were not, you can ask the office or practice manager to provide you with a copy.

Within the well-defined Patient Bill of Rights under HIPAA (Health Insurance Portability and Accountability Act of 1996) you'll find eight clear-cut sections that explain your rights:

1. Information for patients
2. Choice of plans and providers
3. Access to emergency services
4. Taking part in treatment decisions
5. Respect and non-discrimination
6. Confidentiality of your health information
7. Complaints and appeals
8. Consumer responsibilities

The important thing to look at when it comes to medical malpractice in keeping with the Patient Bill of Rights, are **respect and non-discrimination** and **complaints and appeals**.

First, let's look at respect and non-discrimination as defined by the law. HIPAA law clearly states:

You have a right to considerate, respectful care from your doctors, health plan representatives, and other health care providers that does not discriminate against you.

If you feel you have not been treated with respect and consideration by your healthcare provider, HIPAA law is there to protect you.

When your patient rights are violated, the first thing you should do is file a complaint directly with the practice manager to document the date, time, and what occurred between yourself and the healthcare provider in question.

This is an important step to establishing evidence that your rights as a patient were violated! Without properly documenting the initial interaction with the provider, the scenario can quickly become a difficult game of he-said she-said should you choose to hire a personal injury attorney down the road.

If you are not able to document the interaction yourself due to physical impairment or emotional stress, you can ask a trusted family member or friend to write down the events as you remember them and send them by certified mail to the practice manager. Don't forget to make a copy for your records as proof you filed this complaint, just in case the practice claims to not have received it!

Do this as quickly as possible, so that your situation at the doctor's office is not accidentally forgotten due to the high volume of patients doctors see each day.

Next, let's look at **complaints and appeals** as defined by the law. HIPAA law has laid out the following definition:

You have the right to a fair, fast, and objective review of any complaint you have against your health plan, doctors, hospitals or other health care personnel. This includes complaints about waiting times, operating hours, the actions of health care personnel, and the adequacy of health care facilities.

In discussing medical malpractice, let's look at HIPAA's wording in the above law. The Act states you "have the right to a fair, fast, and objective review" of any complaint you have in regard to your healthcare. They state "*the actions of healthcare personnel, and the adequacy of healthcare facilities*" specifically within their explanation of your rights.

Now that we've established your basic rights as a patient, let's look at how that protects you against medical malpractice.

Florida's specific set of malpractice laws can only be navigated by an experienced lawyer that can make the law work for you. When you've been injured at the hands of a healthcare provider that swore an oath to care for and make you well, you might feel angry, upset, resentful, and ready to see justice served for the pain and suffering you've endured.

Florida's malpractice law concerns statutes of limitation. These statutes are as follows:

- The law requires the injured party to file a medical negligence case within **(2) two years** after the initial injury. There is time allotted for counsel to perform "discovery" as to the onset of the injury.
- In respect to the above rule, the state of Florida specifically bans all medical malpractice lawsuits that are not filed within **(2) two years** of the injurious actions; the event that purportedly gave rise to the injuries.
- However, Florida will make case-by-case exceptions if the injured party is a minor, the patient has been deemed incompetent to stand trial due to traumatic brain injury.
- There are instances when an exception will be made if the medical malpractice was fraudulently concealed to avoid prosecution.

Now that we've clearly laid out your rights, how the law can work for you, and clearly defined statutes set by the state of Florida in regard to medical malpractice, we can conclude with what falls within the oftentimes broad definition of medical malpractice.

There are several broad definitions of what could ultimately be considered medical malpractice under the law. The following are examples, and Shaked Law Firm will always explain the specifics to you in regard to your own case.

A medical malpractice lawsuit can be filed due to:

- Unnecessary surgery
- Failure to diagnose, or a misdiagnosis that resulted in the wrong medication, imaging, or surgical procedure being performed, thus resulting in serious injury due to the delay in receiving proper medical care
- Surgical errors; the wrong limb surgically removed or operated on, surgical tools left inside the body
- Improperly dispensed medication resulting in overdose or life-threatening reaction
- Poor or no follow-up care
- Premature discharge from a hospital or rehabilitation facility, resulting in serious injury or death
- Failure of the healthcare provider to order diagnostic testing, or failure to order the correct testing
- Failure of the healthcare provider to recognize symptoms

If you have suffered any number of these, it is important to retain all hospital, office visit, discharge forms, prescriptions, imaging studies and laboratory testing. Your lawyer can look over these documents and expertly work in your favor.

Contact us to schedule a complimentary consultation. There's no obligation. Take the first step and call today: (877). 529-0080



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