



SOUTH CAROLINA MEDICAL MALPRACTICE CLAIMS

What You Must Know Before You Decide To
Sue A Doctor

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Printed in the United States of America.

INTRODUCTION

You have taken a very positive and important step by taking the initiative to learn more about medical malpractice claims by downloading or ordering this report. I hope you will find the following information helpful. My goal is to leave you with some basic information and knowledge about medical negligence to assist you in understanding the steps and process involved in your potential medical negligence lawsuit. I believe that knowledge is power. By providing you with my insight in to this type of case, I hope to arm you with the information you need to make an informed decision about your case.

The information I am providing to you will help you if you believe you or a loved one has been injured, or if a loved one has died as a result of a medical error.

You should be aware that there is a vast amount of misleading information about medical malpractice suits and the victims who pursue medical malpractice claims. I am sure you have heard politicians and news reporters talking about tort reform and the efforts to change the laws to make it difficult for legitimate medical malpractice victims to obtain the recovery they deserve in court. The information that follows is not rhetoric and it is not about getting rich quick. This is about legitimate medical malpractice claims and what you can do to maximize your odds of winning your case if you have a valid medical malpractice claim.

Thank you for ordering the report.

THIS REPORT IS NOT LEGAL ADVICE

The South Carolina Supreme Court requires that I inform you that what is in this report is not legal advice. I am not your lawyer until you and I enter a written agreement for me to be your lawyer. I know the arguments the insurance company will make- and so should you. I can offer suggestions and identify traps, but please do not construe anything in this book to be legal advice about your case, as each case is different and an attorney can only give you quality legal advice when he or she understands the facts involved in your case.

WHAT IS A MEDICAL MALPRACTICE CASE?

Medical malpractice occurs when a personal injury is caused by the neglect or substandard service provided by a physician or other health care professional, hospital or institution.

If you are injured as a result of a preventable error or because of negligent care when you receive medical treatment, you may have a medical malpractice case. However, just because you are injured during medical treatment, you do not necessarily have a medical malpractice case that can be won.

In South Carolina, the following must be proven in order to obtain a successful outcome in a medical malpractice claim:

- ⇒ A **significant**, persistent personal injury was suffered;
- ⇒ The health care provider or institution performed at a level of care below the accepted standard;
- ⇒ The injury was a direct result of the substandard level of care provided;
- ⇒ The medical error that caused your injury must have been preventable and caused by negligence.

For example, there are some cases where a person suffers an injury from a complication during the medical treatment, but that complication is considered "normal". For example, in some surgeries, a complication such as a small infection or even pneumonia may be a common risk. In some cases there is no medical malpractice case that can be won, because the injury was not the result of negligence.

HOW DO I KNOW IF I REALLY HAVE A MEDICAL MALPRACTICE CASE?

*In South
Carolina, nearly
all medical
malpractice cases
require medical
expert testimony,
to prove that the
defendant failed to
conform to the
applicable
standard of care.*

Not every medical malpractice case can be won. In addition, medical malpractice cases are quite complex and difficult to prove. In order to determine if you have a medical malpractice case that can be won, most medical malpractice attorneys first gather all relevant medical records from the physician or hospital where the medical malpractice may have occurred. A complete, detailed set of honest statement and facts about the circumstances leading up to the medical treatment, the possible malpractice, and the events that occurred following the medical error, should also be obtained from the client.

Once the medical records are obtained, they are reviewed and thoroughly examined to determine whether there appears to be enough provable evidence of medical malpractice. If the case looks to be a meritorious one, experts in the appropriate medical field of specialty must be consulted and ultimately retained in the case. Some medical malpractice cases can involve a physician, and others can involve medical staff. You cannot win a malpractice case without a medical expert. A good expert who is willing to testify can be hard to find, but it is an essential aspect of proving a medical malpractice case. Often times, because local doctors can be reluctant to testify against doctors in their own state, with whom they may have a professional relationship, experts may be contacted that are located out of state.

Most experienced medical malpractice lawyers will know how to locate and contact the right expert for your case. The expert will review the medical records and determine whether, in his medical opinion, a standard of care was violated. This means that based upon the facts that were known or should have been known at the time you were treated, did the doctor, nurse, or other medical personnel, fail to follow the standard practice of other physicians, nurses, or other medical personnel with the same education, training and experience as the doctor, nurse, or other medical personnel involved in your case.

WHAT DAMAGES DID YOU SUFFER?

If it appears that you have a provable medical malpractice claim, and that your damages were caused by the medical negligence, it is crucial to determine what damages you suffered as a result of the medical error. In medical malpractice cases, the law allows damages for:

- Past, present and future pain and suffering
- Past, present and future loss of income
- Past, present and future expenses for doctor bills, medications, or other equipment
- Loss of the companionship, society, and/or sexual relationship of a spouse, which would include such things as the ability to keep house, perform yard work, repair the car, etc.
- The loss of the enjoyment of life, or an inability to do or enjoy recreational activities
- Past, present, and future mental anguish and suffering
- Any permanent disfigurement or impairment which you may have suffered as a result of the malpractice

It is very important that you keep track of your medical expenses, including all records of any bills for doctors, medications, crutches, wheelchairs, special beds, special clothing or shoes, or any other item which the doctor recommends that you purchase or use. You should also keep track of the number of visits to your physician and the mileage for these visits.

PROVING YOUR CASE

There is a time limit for filing a medical malpractice case in South Carolina. In most cases, the statute of limitations is three years. However, there are certain cases where the case must be filed sooner.

If you have a valid or meritorious claim, the next step in starting the process of proving a medical negligence case is to file a lawsuit.

A medical malpractice case requires that patient that is claiming medical negligence, the "Plaintiff," to prove that the doctor, hospital, or staff, the "Defendant," deviated so far from the standard of care and treatment that the law considers the Defendant to have been negligent. The Plaintiff must also prove that the negligence was the cause of the injury/damages the Plaintiff is claiming.

Because of the hurdles and vast amount of resources required in proving a medical malpractice case, most medical malpractice attorneys agree that the injury incurred by the Plaintiff needs to be significant.

Small medical malpractice cases simply do not warrant the expense and time required to prove a malpractice case. This means that in my opinion, the medical bills and lost wages should be tremendous, or you must have suffered a severe or permanent disability or disfigurement to warrant bringing a medical malpractice action.

THE FATAL ERROR THAT WILL END YOUR CASE

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There are time limits for bringing a personal injury lawsuit in the state of South Carolina. This is called the statutes of limitations. The time limits are **strict! If you don't file a lawsuit within the statute of limitations, you are barred from filing your medical malpractice case, forever.**

In South Carolina, most medical malpractice personal injury lawsuits are generally subject to a three year statute of limitations. However, there may be exceptions depending on the circumstances. For example, the statute of limitations is different for negligence suits against a South Carolina state **government agency pursuant to the South Carolina Tort Claims Act ("TCA")** and the federal government pursuant to the Federal Tort Claims Act ("**FTCA**"). **In these cases, a lawsuit must generally be filed within two years,** unless certain steps are taken which will extend the time for filing.

It is extremely important to consult with an experienced medical malpractice attorney promptly, so that he or she can evaluate the viability of your potential medical malpractice claim and most importantly, the statute of limitations for filing your lawsuit.

WHAT AN ATTORNEY WILL NEED TO FULLY EVALUATE YOUR CLAIM

When you decide to meet with an attorney regarding your potential medical malpractice case, it is wise to come prepared in advance with information that will help him or her to fully understand your basis for a medical negligence claim.

Here are some of the recommended items that will assist an attorney in evaluating your case:

- **Medical records** – Medical malpractice claims center around the medical care received. It is essential to provide the attorney with all relevant medical records in your possession. Treatment history, results, reports, prognoses, prescriptions, hospital records, etc. will all be useful.
- **Contact information** – In addition to basic contact information for yourself, it is recommended that you gather contact information for the doctors, hospitals, and any individuals who may be called upon as witnesses or to provide further information.
- **Timeline of services received** – Many times, malpractice can occur over time. It is helpful to provide a timeline of all medical treatment and services leading up to and following the medical malpractice. Make a list with the date of symptoms, the actions taken per date, the doctor visits per date, follow-up procedures per date, injuries noticed per date, etc.
- **Medical Bills & Prescription Costs**– Provide the attorney with a detailed record of all medical expenses related to your case. Gather medical bills you have received as well as receipts for all prescriptions related to your medical treatment and injury.
- **Other doctor reports** – As malpractice involves procedures below the recommended level of care, it is helpful to provide doctor reports that indicate injury specifically related to the subpar performance or procedures previously received.
- **Record of injuries**- Keep a log of all of your injuries. This may include lost wages, loss of future income, emotional injuries suffered; emotional damage to the rest of your family, inability to enjoy previously enjoyed activities, dependence on the services of others and more.

Medical malpractice litigation is a lengthy, complex process. Giving as much information about your case to your attorney can help him or her in building your case and attaining the maximum possible compensation you deserve.

WHERE DO YOU GO FROM HERE?

As a potential medical malpractice plaintiff, the most important thing you can do for your case is to keep track of all documents and items related to your case. Details are very important in medical malpractice cases, as **some cases may involve analyzing years of the patient's medical history**, especially in cases where the insurance company blames your injury on a pre-existing medical condition as opposed to medical malpractice.

By requesting and reading this report, you have taken the first step in your search for justice. Remember, you have a limited amount of time to file your lawsuit in South Carolina. The legal process does take time. You should weigh your options, choose an attorney carefully, and begin your investigation immediately.

WHAT CASES WE DO NOT ACCEPT

Our law firm is designed to provide personal service to each client. We accomplish this objective by limiting the cases we accept to those that meet our criteria for representation. All other cases, we decline, but will gladly recommend other local attorneys or law firms that may be of assistance.

Generally, Shelly Leeke Law Firm will not accept the following types of cases:

1. Cases where there is no significant injury. Some cases are so small that even if you win, the case will cost more to prove than the value of the **case. The last thing you want to happen is to “win” a case, and have expenses and fees that are larger than what you receive for your personal injury.**
2. Cases where the statute of limitations will soon run out. We generally only accept cases where there is at least one year left in the statute of limitations. Injury cases are complex and many take a lot of time. Your delay is not going to become my disaster.
3. Cases where you have already filed the case or where another attorney has already represented you and filed the case. We like to do things our way.

Are There Any Cases Left??

Yes, there are, and Shelly Leeke Law Firm represents lots of injured victims. You can call us to schedule a complimentary case evaluation anytime. Just call 843-297-8485 or toll free 1-877-533-1046. Tell Ruby you **read this report and she'll make sure to schedule a telephone conference with me within 24 to 48 hours.**

ABOUT THE AUTHOR

SHELLY M. LEEKE

Shelly Leeke Law Firm,
LLC

Personal injury attorney Shelly Leeke and her law firm are dedicated to protecting your interests and handling your case with personal attention, aggressive advocacy, professionalism, and compassion.

Shelly Leeke has successfully represented injured people, car accident victims, and wrongful death cases in South Carolina for nearly a decade. She understands that sustaining traumatic and life changing injuries is emotionally devastating. The firm strives to balance this concern with the unique and rigorous demands of the legal system. The selection of your personal injury attorney is an important decision, and which may have far reaching consequences.



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South Carolina attorney, Shelly Leeke, has been representing people injured in accidents for nearly a decade. A native of the Palmetto State, Shelly is a graduate of Wofford College in Spartanburg. She attended Tulane Law School in New Orleans, Louisiana, where she graduated cum laude. She is the recipient of a CALI Excellence for the Future Award, and also earned an Achievement Award from McGill University in Montreal, Quebec, CA for her studies in human rights law. She served as a judicial law clerk in the Louisiana Supreme Court.

Shelly is the founder of the law firm, Shelly Leeke, LLC, Attorneys at Law. The firm handles accident cases throughout South Carolina, particularly in the lowcountry counties of Charleston, Berkeley, Dorchester, Colleton, Georgetown, Clarendon, Beaufort, Jasper, Orangeburg, Sumter, Williamsburg, Hampton, and Horry. Shelly represents victims of personal injury and automobile accidents as well as wrongful **death and worker's compensation clients. She has represented clients all over the state and has represented clients nationwide.**

Shelly is a member of the South Carolina Bar and the Louisiana State Bar and is licensed to practice in state courts and the United States District Court Eastern District of Louisiana Federal Court, United States District Court Western District of Louisiana Federal Court, and the United States 5th Circuit Court of Appeal. She is a member of the South Carolina, Louisiana, Charleston and American Bar Associations.

Shelly's professional associations include involvement with the South Carolina Association for Justice, The American Association for Justice, The Center for Women, The Mt. Pleasant Rotary Club, Rotary Club International, and The Chamber of Commerce. She is dedicated to promoting community outreach to all of the children in our community. She is actively involved as a big sister with the Big Brothers Big Sisters of Carolina Youth Development Center. When she is not working, Shelly can be found playing tennis, going for a bike ride, jogging, or spending time with her Chihuahuas, C.C. and T.T.



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Attorney and Counselor at Law