

Thousands of people are injured by their physician every year. However, not all of the people who are injured are entitled to be compensated for their injuries. Why not?

In order to be compensated for injuries received by a treating physician (medical malpractice), the plaintiff (the individual seeking to be compensated) must prove four elements. These elements include duty, breach, causation and damages. Let me explain each in turn.

Duty. A physician has the responsibility to treat a patient at the professional standard of care of the average physician set by the medical community. Medical specialists must meet or exceed the standard of care of specialists in their area of specialty.

Breach. A physician breaches his duty of care when his actions do not meet or exceed the professional standards set by the medical community.

Causation. Not only must a plaintiff prove the physician breached his duty of care, the plaintiff must prove that that breach was the cause of the patient's damages. For example, a patient is allergic to a specific medication. The patient's physician is aware of the allergy and treats the patient with that medication in error. The patient has a heart attack and dies. Though the patient was allergic to the medication, none of the allergic side effects include heart attacks. There was no causation between the medicine and the heart attack. The patient therefore had no cause of action and could not sue the doctor for malpractice. If one of the allergic side effects was heart failure, the patient would have a cause of action for medical malpractice against the physician.

Damages. Once a plaintiff has shown that the physician has breached his duty of care, and that breach has caused the harm in question, the plaintiff must show that he has monetary damages. Sometimes, a physician has breached his duty of care causing injuries, but there are no significant damages. In the above example, a physician could administer medication he knew his patient was allergic to. The patient sneezed a few times and got watery eyes for a few hours not causing lost work or any pain. In this scenario, the patient would not be able to sue for medical malpractice because he sustained no monetary damages. Conversely, if the patient develops severe sneezing and watery eyes that persisted for several weeks causing him to miss work and experience great pain and irritation, there would be monetary damages and the patient could therefore sue his physician for medical practice. There are many potential medical malpractice lawsuits where the plaintiff cannot show that he has experienced monetary loss.

Search to find a medical malpractice attorney that will provide a free initial consultation to determine whether or not your particular matter can meet the elements of duty, breach, causation and damages allowing you to proceed with your medical malpractice lawsuit.

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