

Helping People in Durham Who are Suffering Due to Medical Malpractice

We place a tremendous amount of trust in our medical professionals, sometimes we even trust them with their lives. Even though most medical providers have years of training and care deeply about their patients, mistakes can still happen. These mistakes can leave you feeling powerless – you need to focus on your recovery and your health doesn't allow you to sort out what went wrong. Fortunately, the attorneys at Martin & Jones can help, and a Durham medical malpractice attorney is just a phone call away.

The Standard of Care for Durham Healthcare Professionals

Medical malpractice cases are typically the result of negligence on the part of an individual medical provider or the hospital or other institution. However, determining negligence in the context of a medical malpractice case is unusually difficult. The fact that there were complications or the treatment was unsuccessful doesn't necessarily mean that you are the victim of malpractice. Even if you are certain that your treatment did not go as promised, you have to prove your case.

The critical issue in medical malpractice is determining whether the doctor or hospital provided treatment that did not meet the standard of care. The standard of care is arguably unique to each case. The question is whether they failed to provide treatment according to the standard that most other medical professionals with the same level of expertise and training in the same case or similar case. Most non-lawyers are unable to make this determination, but an experienced Durham medical malpractice lawyer can help.

When Medical Malpractice Can Occur

When you discuss medical malpractice, most people immediately think of surgical errors or cases that result in death. However, medical malpractice can occur at almost any point during your treatment:

- Diagnosis errors – either an incorrect diagnosis or a delayed diagnosis
- Medication errors – prescribing the wrong medication, the wrong dosage, or prescribing a medication that has an adverse effect when combined with a medication you are already taking
- Anesthetic errors – Providing the wrong anesthetic or the wrong dose
- Birth injuries – injuries sustained to the baby or the mother during the birthing process
- Emergency room errors – Errors or inadequate treatment that occurs in the emergency room

The reality is that there are several points at which malpractice can occur. If you suspect that you are suffering as a result of medical malpractice, a Durham medical malpractice attorney can discuss your case with you and determine whether you have a claim.

About Informed Consent in Healthcare Facilities

Generally speaking, there are very few situations where a recommended medical treatment comes with a guaranteed outcome. Complications, side effects, and other potential risks are always possible. However, doctors and hospitals are obligated to disclose any known potential side effects or complications. If they fail to do so and you are injured, you may have a medical malpractice claim.

This is why you are required to sign various consent forms before receiving treatment – your doctor must obtain your *informed consent*. In a nutshell, those forms are an acknowledgment that you are aware of the risks associated with your treatment. Your doctor or other staff are supposed to provide you with information regarding these risks before having you sign the forms. You may have a claim for medical malpractice if they failed to provide this information, did not provide it in some meaningful way, or misrepresented information regarding the risks.

As a result, the fact that you signed the consent forms does not mean that you don't have a claim. Informed consent is a rebuttable presumption, which means that you can still pursue a claim if you can prove that the disclosure was inadequate in some material way. However, this is not easy, as it requires knowledge of the law and the rules of evidence. A knowledgeable Durham medical malpractice attorney will know how to overcome the fact that you signed the consent forms.

Damages Your Durham Medical Malpractice Lawyer Will Pursue

If your claim is successful, you could receive money for the following:

- Any medical expenses incurred in obtaining the treatment that caused the injury;
- Any medical expenses required to correct the injury;
- Your lost income; and
- Your pain and suffering.

If you've been disabled as a result of medical malpractice, then you may be able to recover additional damages. A Durham medical malpractice attorney can review your case and provide an estimate of what it may be worth.

North Carolina Medical Malpractice Statute of Limitations

Every [type of personal injury case](#) is subject to what is referred to as a "statute of limitations." This is a deadline imposed by law by which you must file suit. If you do not file your lawsuit within that time period, you will lose all of your rights. In North Carolina, the statute of limitations for personal injury cases varies.

The statute of limitations is more complicated for medical malpractice cases. This is because your injury isn't always immediately apparent. For example, if the doctor left a foreign object inside of you during surgery and discovered the object years from the date of your surgery.

Do not assume that you have plenty of time. The statute of limitations presents many complicated legal issues in a medical malpractice case. If you suspect that you are the victim of medical malpractice, you should speak with a Durham medical malpractice attorney as soon as possible.

Frequently Asked Questions About Medical Malpractice Claims

What damages am I entitled to if I have a medical malpractice claim?

There are three types of damages (i.e. compensation) that you can seek in a medical malpractice claim in North Carolina:

- **Economic damages**, which include your current and future medical bills and lost income and earning capacity. Generally speaking, economic damages can include any loss that has a specific "economic" value.
- **Non-economic damages** such as your pain and suffering.

- **Punitive damages** which are intended to punish the healthcare provider and act as a disincentive to others for similar behavior. Note that punitive damages are awarded only rarely in cases where the healthcare provider has acted recklessly, fraudulently, or engaged in similar behavior.

A Durham medical malpractice attorney will be able to provide you with an estimate of what your case may be worth at the initial consultation.

Is there a limitation on the damages I might receive?

North Carolina does place a cap on non-economic damages and punitive damages in medical malpractice cases:

- Non-economic damages are capped at \$500,000
- Punitive damages are capped at \$250,000

However, the cap on non-economic damages will not apply in the following cases:

- You suffered the loss of use of part of your body, permanent injury, disfigurement, or death; and
- The healthcare provider was reckless, grossly negligent, fraudulent, or malicious.

Proving that the cap on non-economic damages does not apply can be quite difficult. As a result, if you have suffered permanent injury or disfigurement as a result of medical malpractice, we strongly urge you to discuss your case with a Durham medical malpractice attorney before taking action.

Will my case have to go to trial?

While medical malpractice cases do tend to go to trial more often than other personal injury cases, the majority of them are settled by the healthcare provider's malpractice insurance carrier before getting that far.

I signed a consent form, did I waive my right to pursue a medical malpractice claim?

Signing an informed consent form is simply an acknowledgment that you understand the potential risks associated with your treatment. It is not a blanket waiver that protects the healthcare provider in every situation. If the provider was subsequently negligent in providing treatment, you can still pursue a malpractice claim. Furthermore, the fact that you signed the consent form does not necessarily mean that the provider made a meaningful disclosure of the associated risks. Nevertheless, how informed consent applies to your case can be complicated, but a Durham medical malpractice attorney will know how to navigate this issue.

How can I afford a Durham medical malpractice attorney?

Medical malpractice attorneys handle claims on a contingency fee basis. This means that they will receive a percentage of any compensation they recover as their fee. As a result, you will never pay any up-front legal fees out of your own pocket. A Durham medical malpractice attorney can explain specifically what percentage they will receive and how this process will work in your case at your initial consultation.

Speak with a Durham Medical Malpractice Attorney Today

You don't have to face your malpractice claim alone. Founded in 1982, we've helped thousands of people recover the compensation they need to rebuild their life. We work with our clients every step of the way to help them build a better future. To schedule a free consultation with a Durham medical malpractice attorney, [contact us](#) today at [800-662-1234](#).

Raleigh Medical Malpractice Lawyer

Helping Victims

In choosing a legal team, people often overlook important considerations that could be critical to the success of their case. With an office in Raleigh, the medical malpractice lawyers at Martin & Jones are always accessible. Our legal team knows the local medical community and how to overcome the challenges you face in pursuing your medical malpractice claim. If you suspect you are the victim of medical malpractice, contact a Raleigh medical malpractice lawyer at Martin & Jones to discuss your case as soon as possible.

About Medical Malpractice Claims in Raleigh

Most people think of medical malpractice in terms of the truly egregious cases you hear about through the media. However, mistakes happen more frequently than many people realize and can result in serious health issues and even death. If you suspect you or a loved one are suffering as a result of medical malpractice, a Raleigh medical malpractice lawyer can evaluate your case and help you understand your options.

Understanding the Standard of Care

The main issue in every medical malpractice case is whether the doctor or other medical professional breached the standard of care. The fact that you suffered an unexpected outcome or the treatment was unsuccessful does not necessarily mean that you are the victim of medical malpractice.

The standard of care is the level of care that would be provided in a similar case by an ordinarily prudent health care professional with the same amount of training and experience. Determining the appropriate standard of care in your case and whether it was breached is extraordinarily complex as it requires understanding which facts are important and how the law will apply to your case. Your Raleigh medical malpractice lawyer will work to put these important pieces of your potential case together.

Negative Outcomes vs. Medical Malpractice

Medical malpractice cases are also difficult because it can often be difficult to distinguish between an unsuccessful treatment and malpractice. There are rarely any guarantees when it comes to medical treatment, so a negative outcome does not necessarily mean that malpractice is to blame. In addition to unsuccessful treatment, the following also may not qualify as malpractice:

- Unforeseen complications
- Risks or potential complications that were disclosed

Whether or not risks or complications were disclosed can be a difficult issue. A Raleigh medical malpractice lawyer will be able to determine whether or not you have a claim for malpractice, and then help you understand your options.

Why You Need a Raleigh Medical Malpractice Lawyer

It is incredibly difficult for non-lawyers to pursue medical malpractice claims. Not only are the facts incredibly complicated, but doctors and hospitals immediately submit any potential claims to their malpractice insurance carriers. This means that lawyers representing the doctor or hospital will be involved almost right away. They will demand strict proof of your claim and will be focused on protecting their client. You need someone on your side who can help you build a strong case so that you can get the money you need to rebuild your life.

Contact Martin & Jones to Discuss Your Claim Today

If you suspect that you've suffered as a result of medical malpractice, you should talk to a Raleigh medical malpractice lawyer at Martin & Jones as soon as possible. We can review your case, help you understand your options, and provide you with an estimate of what your claim may be worth. To schedule a free consultation, [contact us](#) today at [1-800-662-1234](#).