

October 02, 2013 /**24-7PressRelease**/ -- Our nation enjoys a high standard of healthcare but that does not mean that instances of medical errors or negligence cannot and do not still occur. According to Becker's Hospital Review, there were more than 12,000 payouts totaling \$3.6 billion in medical malpractice awards in 2012 nationwide. Horry County residents are protected under South Carolina laws with the right to file claims in the event of [medical malpractice](#) situations.

What is "medical malpractice"?

According to the South Carolina legislature, medical malpractice is defined as an action or event "which the reasonably prudent health care provider or health care institution would not do or not doing that which the reasonably prudent health care provider or health care institution would do in the same or similar circumstances".

The subjective nature of the legal definition is what can make medical malpractice claims challenging to prove yet it can also allow for them to be won.

The burden of proof

As in any [personal injury](#) lawsuit, the plaintiff has the responsibility to prove their case. In a medical malpractice action, there are four things that must be established by the plaintiff to support the claim:- A professional relationship existed--the plaintiff must prove that there was a professional provider-patient relationship in which the provider knowingly and legally was delivering care to the patient- An error occurred--a malpractice plaintiff must provide evidence to prove that an actual medical error occurred- The error caused an injury--once it has been established that a negligent act or error occurred, the plaintiff must show cause that the error resulted in an injury- The injury caused harm--a plaintiff needs to show that either physical, emotional and/or financial harm was incurred as a result of the injury

Using the criteria above, a discussion with a doctor at a cocktail party about a medical situation cannot be used to establish a professional doctor-patient relationship.

One of the most challenging aspects of any medical malpractice lawsuit is proving that a

Proving medical malpractice in South Carolina

Written by Australian Business

patient's condition was either caused or worsened by the actions (or lack thereof) of a healthcare professional. Because patients are frequently injured or ill when initially seeking medical care, it can be hard to differentiate what component of an injury or illness is related to a medical error versus the already existing condition.

South Carolina statute of limitations

South Carolina allows a period of three years from the date an injury occurs to file a lawsuit. In some cases, the injury is known not until sometime after it has occurred in which case a patient has three years from the date an injury is discovered to file a suit provided that it is filed within a maximum of six years from the date the incident actually took place.

Minors are given either seven years after the date of injury or one year after the day they turn 18 to file a claim. This statute is nulled in cases where any fraud or collusion impeded the case.

Representation is important

Because of the nuances and challenges inherent in medical malpractice cases, proper legal representation is importation. It can sometimes be difficult to know whether or not a true error has happened. If you suspect such a situation, it is usually a good idea to speak to an attorney to get clarification about your best options.

Article provided by Stampfle Law Firm Visit us at www.stampflelawfirm.com