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Time Limit Considerations in Medical Malpractice Claims

If you have been injured through a doctor's negligence, you may feel that you should adopt a "wait-and-see" approach with respect to your injury, and deciding whether you want to pursue your legal remedies. You should bear in mind that the law requires you to pursue legal remedies sooner rather than later. This requirement is generally known as "statute of limitations." If you fail to file your claim within the statute of limitations you may be forever barred from bringing your claim, regardless of the merit of your claim. Finally, statutes of limitations applicable to medical malpractice actions are often shorter than for other types of personal injury actions. Therefore, even if you do not think you will be bringing a lawsuit, consulting with an experienced personal injury attorney is essential to determine if any action should be taken to preserve your potential claim.

When Does the Statute Begin to Run in Medical Malpractice Cases?

Courts take different views on when the statute of limitations begins to run in medical malpractice cases. To some extent, the difference in these views is a reflection of the wording in the statutes. The difference also reflects the courts' views on the relative merit of protecting injured parties versus protecting medical providers by enabling them to defend themselves when records are still in existence and recollections are still fresh.

In some courts, the time for filing a claim begins to run upon the occurrence of the act or omission the plaintiff claims constituted malpractice. Other courts say that the time begins running when the act or omission results in injury. Another view is that the time begins to run when the plaintiff discovered or should have discovered he or she was injured. A fourth view is that the time begins to run when the treatment concludes.

Things get even more complicated when the injured party dies. In the case of malpractice causing death, the courts must first decide whether the wrongful death statute applies or whether the statute of limitations for medical malpractice applies. Once that is decided, the court must then decide what triggers the running of the statute of limitations. The courts may say that the statute begins to run when the plaintiff dies. Or the court may decide that the statute begins to run when the action that allegedly caused the death occurs. Another court may decide that the time begins to run when the plaintiff discovers or should have discovered the harm done or that the death was caused by malpractice. Yet another view would be that the statute of limitations begins to run on the date of the last treatment, which may or may not be the date of death or the date the plaintiff discovered the harm done by the malpractice.

Getting Legal Help

State laws are frequently revised from year-to-year, including statutes of limitations, so it is important to speak with an attorney to understand how your state's current laws will apply in your case. Go [here](#) to find an experienced medical malpractice attorney near you.

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