

Medical Malpractice Laws by State

Medical malpractice laws governing hospital and doctor lawsuits vary by state. While the general principles required for a medical malpractice lawsuit are consistent nationwide, there are differences in the time limits for filing a claim, types of negligence requirements, and caps on award amounts for certain types of damages.

Statute of Limitations

The most important law that varies by state is the statute of limitations. This is the time limit a patient or their family members has to bring a medical malpractice lawsuit. Usually this will be between 1-3 years from the date of the injury, or discovery of the injury.

Once this time limit has expired, no medical malpractice claim may be brought, so it's important that injured patients be aware of the time limit in their state.

Caps on Amount of Money Awarded Victims

Some states have placed a cap on non-economic damages, which limits how much money a plaintiff in a medical malpractice case can get for non-economic compensation, such as pain and suffering.

The main driver placing caps on damages are the lobbyists working for the medical malpractice insurance companies. Obviously it is in their best interest to have legislation past that limits the amount of money they will have to pay out to injured patients

Constitutionality and Economic Impact of Caps

Some states, such as Alabama, have found it unconstitutional to place a cap on damages, while others, such as California and Texas have placed such caps.

The insurance companies claim that high lawsuit payouts force them to raise their premiums, thus increasing the cost of healthcare overall. However, many doctors in state that have caps have seen no decrease in their premium costs after caps had been implemented.

There is an ongoing debate regarding the economic value of damages caps, and the constitutionality of such caps. Many experts agree that the caps do not have any significant impact on the cost of healthcare, but rather function to increase the profits of the medical malpractice insurance companies.

Impact on Medical Malpractice Victims

While the obvious impact on victims of medical malpractice is a reduced award amount, the other issue is that the caps make it difficult for medical malpractice lawyers to take certain cases.

In cases where the victims economic damages are not large enough to warrant a lawsuit, an attorney can use non-economic damages to make the case happen. However, if there is a cap in place, medical malpractice attorneys often have to turn away good cases due to the cost.

This fact impacts cases of birth injury the most, because, in the eyes of the law, a baby is only worth the amount of money required for medical costs. Because infants have no income, they cannot receive damages for the lost income or future earnings. This leaves only medical expenses and pain and suffering.

If a cap is placed on non-economic damages such as pain and suffering, then the case is significantly diminished in value and may not be feasible.

Detailed Medical Malpractice Laws by State

Alabama

Medical malpractice is a legal liability due to negligence on the part of a doctor or medical corporation that has treated you. In order to prove this negligence, you must prove three things. That the doctor had a duty to you, the doctor did something while treating you that no reasonable doctor would have done in the same circumstances, as a result of this action you were injured, and that it was the doctor's errors in treatment that caused this injury. Some of these may seem similar, but they are worded in such a way due to law terminology.

Alabama State Malpractice Laws at a Glance:

	Alabama State Tort Law
Statute of Limitations	Two years from date of original injury or six months after injury was discovered. After four years from the original injury, a suit may not be brought.
Damage Award Limits	Limits have been declared unconstitutional by Alabama State Supreme Court
Joint Defendant Liability	There is no separation of liability
Expert Witness	The expert witness must have practiced in the last year, and be licensed in the same specialty as the defendant
Attorney Fees	Alabama has no limits on attorneys fees

Can I Receive Damages For Malpractice?

Medical Malpractice law in Alabama does allow you to receive monetary compensation for mistakes made by a doctor when treating you. Even if the mistake was made by a corporation and not a single doctor, you stand a good chance of receiving some compensation. It differs with each case whether or not a single doctor or the whole staff of the corporation will be determined to be at fault. The state of Alabama requires a doctor or corporation to post a bond and carry medical liability insurance in order to cover such cases as this.

What Is Informed Consent?

Medical Malpractice law in Alabama covers the rule of informed consent. What this means is that a doctor that is going to perform a treatment on you, must have your informed consent before hand in order to do so. In other words, the doctor must inform you about what the medical treatment entails, what procedures will be used, what drugs if any will be used, what surgery will be performed, and any side effects that may occur. If a doctor does not receive your informed consent before performing a treatment, then it is usually a good case for medical malpractice.

What If A Patient Becomes Addicted To a Treatment?

With the crisis of so many people being addicted to pain killers, it is becoming a regular case. However, it is only medical malpractice if the patient was not warned before he or she was prescribed the painkillers. The information doesn't have to be by mouth, it can be in the paperwork given to the patient beforehand. Hopefully, you have learned a bit more about the basics of medical malpractice in Alabama due to this article and have a better idea whether or not you have a case.

In the state of **Alaska**, you have a limited window of time where you may file a lawsuit based on medical malpractice law in Alaska. This time frame is two years from the time of the injury or death of the patient.

Negligence

The state of Alaska has adopted the doctrine of pure comparative negligence. A judge first put this into place before it became a state statute. What this doctrine basically says is that the claimant's fault doesn't bar recovery, but instead, damages are reduced in manner that is determined by the percentage of his or her fault.

Alaska State Malpractice Laws at a Glance:

	Alaska State Tort Law
Statute of Limitations	Two years from the time the injury is first discovered.
Damage Award Limits	Limit of \$500,000 or thrice the compensatory amount for punitive damages. 1 million or life expectancy calculation limit for severe injury. \$400,000 or life expectancy calculation limit for noneconomic damages.
Joint Defendant Liability	The defendants are proportionally liable.
Expert Witness	Must be trained and licensed in same field as defendant. Must be state certified.
Attorney Fees	No limits on attorneys fees

Joint and Several Liability

Medical malpractice law in Alaska has rejected both the common laws of joint and several liability and is using the allocated several liability method. This states that in actions that involve more than one person at fault, that the court will prosecute them for the percentage of fault that they possess. When the joint and several liability law was repealed in the state of Alaska, so too was the contribution among joint tortfeasors act.

Vicarious Liability

Medical malpractice law in Alaska goes by the doctrine of apparent or ostensible agency when it comes to emergency room doctors. There have been some laws passed recently that states that the hospital is not vicariously responsible for actions of an emergency room doctor, that is, as long as the doctor carries medical insurance with limits of \$500,000 per claim. In cases such as this, the hospital must also post a statement that claims that the emergency room doctors are independent contractors.

Expert Testimony

In some medical malpractice cases, the parties involved will agree not to arbitrate. When this occurs, the court may appoint a three member panel within a time period of 20 days before the answer is filed. This panel of experts has to responsibility to compel witnesses to attend, interview the parties involved, examine the claimant in the case, and urge the production of any necessary materials in the case.

Damage Caps

Medical malpractice law in Alaska has set some specific caps on the amount of damages that may be rewarded in a trial. For an example, damages for losses that are not in money, such as pain, loss in enjoyment in life, and suffering, are capped at \$500,000 per claimant. Alaska also has a cap on punitive damages. These are limited to 3 times the compensatory damage or \$500,000.

Medical malpractice law in **Arizona** has a certain limit on the time frame by which you may file your lawsuit. In the state of Arizona, the statute of limitations on these medical malpractice cases is two years from the date in which the injury or death occurred.

Contribution

The right of contribution is relevant only among those tortfeasors who are jointly or severally liable. These tortfeasors are entitled to a contribution once he or she has discharged the common liability or has paid more than his or her fair share. In the case that they have entered into a joint settlement, the other claimant is not entitled to receive any contributions from a joint tortfeasor who has a liability that was not extinguished by the settlement.

Arizona State Malpractice Laws at a Glance:

	Arizona State Tort Law
Statute of Limitations	Two years from date of original injury
Damage Award Limits	No limits
Joint Defendant Liability	Proportionate liability for defendants
Expert Witness	No stipulations for witnesses
Attorney Fees	No limits on attorneys fees

Expert Testimony

In any case that involves medical malpractice law in Arizona, the claimant must prove that the defendant failed to meet the demands of the standard health care practice by a direct expert's testimony. If no expert testimony can be granted, then a summary judgment will be given.

Periodic Payments

When future damages in any kind of personal injury lawsuit are granted that exceed an amount of \$100,000, then the court may require either party to make these future damages payments periodically. The only time that periodic payments may not be granted is in cases such as intentional torts, gross negligence, or any form of extreme case of misconduct. These periodic payments are considered to be an asset that is inheritable, divisible, and so on.

Immunities

One of the major sections of malpractice law in Arizona includes the laws covering immunities. Whenever a government entity, such as county or city hospital and its employees, acts without malice or criminal intent, then under Arizona law they are not held responsible for any act or omission of an employee. Therefore, if a person gets injured, but it is not a result of malice, recklessness, the government entity is not held responsible for any punitive damages.

Pre-judgment Interest

Pre-judgment interest is available to any claimants of personal injury only when the damage is subject to exact computation prior to the verdict. Any damages that do not have to do with money are not held to this exact computation standard and as a result there is no need for pre-judgment interest. As you can see, medical malpractice law in Arizona has a lot of details involved and can be quite complicated.

Medical malpractice law in **Arkansas** is basically when a provider of health care violates a certain standard in the medical profession and as a result a patient is injured. This injury may be the result of an action performed by the medical practitioner, or the negligence of the practitioner. A few examples of medical malpractice include: a misdiagnosis or a failure to diagnose a condition, failure to provide an appropriate condition, and a delay in treatment for which there is no excuse.

Arkansas State Malpractice Laws at a Glance:

	Arkansas State Tort Law
Statute of Limitations	Two years from date of original injury or one year in the case of foreign objects.
Damage Award Limits	Award not to go over 1 million dollars. Limit of \$250,000 per plaintiff or triple the amount of economic damages for punitive damages.
Joint Defendant Liability	Proportionate liability for defendants
Expert Witness	Must be trained in same field as defendant
Attorney Fees	No limits on attorneys fees

Malpractice Damage Limits

There are limits on the damages that may be granted in law suits based on medical malpractice law in Arkansas. Most punitive damages have a limit of \$250,000, or 3 times the actual damage. The total reward for punitive damages granted may not exceed \$1 million dollars. You should know that these numbers are regularly adjusted for inflation.

Collateral Source Rule

There is a traditional collateral source rule in the state of Arkansas that states that a defendant may not be able to reduce his or her liability by introducing any evidence that claims that the defendant has received any form of compensation from other sources, such as their medial insurance for example. Awards may be reduced by compensation provided by collateral sources in some cases.

Joint and Several Liability

There is a traditional rule of joint and several liability that states that when more than a single defendant is liable for an injury they are individually liable for the entire amount of the judgment. So in cases where one of the defendants that is liable is unable to pay any of the damages, the other defendant that is liable must pay all of the damages. In the state of Arkansas however, each defendant in the case is only liable for a predetermined amount of the damages.

Why a Lawyer is preferred?

The final tenant of medical malpractice law in Arkansas to be discussed is the matter of choosing a lawyer and why doing so is important. The answer is because medical malpractice defendants can afford the best attorneys that money can buy. You have to make sure that you have an attorney that can prosecute your case effectively and hopefully win your case for you. Because the process is costly and leaves many opportunities for error, make sure that you seek out a [medical malpractice lawyer](#) when you make your case.

Medical malpractice law in **California** is written in order to protect people from injuries that are the cause of negligence or intent by a healthcare professional. Some examples of these medical malpractice situations may include: misdiagnoses of a particular medical condition, failure to diagnose a medical condition, failure to provide the needed treatment, or an unreasonable delay in the treatment of a medical condition.

Limits on Damages

Every state has limits on the amount of damages that may be awarded and medical malpractice law in California is no different. This state has a limit on the non-economic damages that may be awarded in a medical malpractice case which is \$250,000.

California State Malpractice Laws at a Glance:

	California State Tort Law
Statute of Limitations	Three years from date of original injury or one year after injury is discovered. Exceptions may be made for cases of foreign objects, fraud, or concealment.
Damage Award Limits	California has a limit for noneconomic damages of \$250,000
Joint Defendant Liability	Proportionate liability for defendants where noneconomic damages are concerned. Joint and several liability for other damages.
Expert Witness	The expert witness must have the appropriate knowledge and training that is pertinent to the specifics of the case.
Attorney Fees	Limit on attorneys fees is on a sliding scale based on awarded damages.

Rules for Expert Witnesses

There are certain times in a medical malpractice case that will require an expert in the field of healthcare to be a witness in the case. These experts must testify whether or not in their professional opinion that the health care professional either did or did not act according to medical standards.

Statute of Limitations

Medical malpractice law in California holds a certain window of time in which you may file a lawsuit for medical malpractice. This period is 3 years from the date of the injury, or 1 year from the date in which the patient should have realized that the injury had occurred. If the case involves a foreign object that is located in the plaintiff's body, then the time limit begins on the date in which the object was found or should have been found. The law is also a bit different for minors who are below the age of 6. In these cases, the time limit is 3 years from the date of the injury or before the minor's 8th birthday, whichever occurs sooner.

Finding the Right Lawyer

Medical malpractice law in California is a very technical and detailed form of law, so employing a lawyer is basically obligatory. It is also important that you pick a specialist in the area of medical malpractice. After all, a lawyer that is not experienced in the area will no doubt make mistakes and miss important details and opportunities. These types of lawsuits can be very expensive, up to \$100,000 or more in fees and court costs, so make sure that if you spend this money that you are going to win. The right lawyer can advise you on whether or not your case is winnable.

Medical malpractice law in **Colorado**, as you know, is a serious issue. If you have been injured due to the negligence or malicious intent of a medical care professional, then you are entitled to certain damages that will be determined in a court of law.

Limits on Damages

Medical malpractice law in Colorado does have some limits on just how much the injured party may collect. Non-economic damages may be awarded up to \$300,000 and the total number of damages may not be greater than \$1 million.

Colorado State Malpractice Laws at a Glance:

	Colorado State Tort Law
Statute of Limitations	Two years from date of original injury and not longer than three years from act. In cases of foreign objects, Colorado allows two years from date of discovery.
Damage Award Limits	\$300,000 limit to noneconomic damages. \$1 million total limit.
Joint Defendant Liability	Proportionate liability for defendants. Exception made if act was intentional.
Expert Witness	The expert witness must be a licensed doctor with knowledge of care provided on date of injury.
Attorney Fees	No limits on attorneys fees

Collateral Source Rule

There is also the traditional collateral source rule that states that the defendant in a medical malpractice case may not be able to introduce evidence into the case that would lower the amount of damages due to the fact that the plaintiff has received compensation from other sources. In the state of Colorado, there is an obligatory offset for payments that are received from other sources such as insurance companies for example.

Joint and Several Liability

There is a traditional law that states that when more than one defendant is in a medical malpractice case that each defendant is liable for the entire settlement should one of the other defendants in the case not be able to pay their share. However, the state of Colorado has done away with this law so each defendant in the case is only liable for their fair share of the damages based on their proportionate fault in the case.

Statute of Limitations

Every state has its own laws concerning the statute of limitations, and medical malpractice law in Colorado is no exception. In this state, the law suit must be filed within the first 2 years since the injury was or should have been discovered. No law suit may be filed after 3 years since the injury occurred however. Also, if it was a minor younger than the age of 6 that was injured, he or she has until their eighth birthday in which they may file their law suit.

Why a Lawyer is Needed?

It is very important that you hire a specialist in the field of medical malpractice law in Colorado if you plan on winning your case. There are few types of cases that are as complex as medical malpractice and how so many options for error. Also, the defendants in these cases have access to the most expensive and professional legal firms available so you will definitely have to have your own legal professional.

Medical malpractice law in **Connecticut** involves the injury or death of a patient as a result of negligence or malicious intent. Examples include: a misdiagnoses of a medical condition, failure to diagnose a medical condition, failure to provide treatment for a medical condition, or a delay in the treatment of a patient with no good reason. The state of Connecticut is a bit rare as it does not have any limit on the amount of damages in which an injured patient may collect.

Connecticut State Malpractice Laws at a Glance:

	Connecticut State Tort Law
Statute of Limitations	Two years from date of original injury and not longer than three years from act.
Damage Award Limits	No limits
Joint Defendant Liability	Proportionate liability for defendants
Expert Witness	The expert witness must be trained in same field as defendant or have knowledge and training in a related field.
Attorney Fees	Limit on attorneys fees is on a sliding scale based on awarded damages.

Expert Witnesses

Medical malpractice law in Connecticut will require a professional in the field of medicine to be a witness to the fact that the defendant either did or did not follow the standard medical procedures when the injury was caused. In the state of Connecticut this witness must have at least practiced for 5 years previously and naturally they must be licensed.

Statute of Limitations

As most other states, there is a statute of limitations when it comes to when a patient may file a lawsuit for medical malpractice. In the state of Connecticut the legal action must begin within the first 2 years after the date of the injury. Unlike other states, Connecticut does not have a statute of limitations when it comes to injured minors.

Limits on Attorney's Fees

Medical malpractice law in Connecticut does have some limits on the fees that attorneys may charge. Lawyers in Connecticut may not charge more than one third of the first \$300,000, 25 percent of the next \$300,000, 20 percent of the following \$300,000, 15 percent of the following \$300,000, and 10 percent on any award greater than \$1.2 million. Even though attorneys may be expensive, it is very important that you do not try to prosecute your case without one.

Additional Rules and Regulations

There are a few more miscellaneous rules and regulations included in medical malpractice law in Connecticut. For example, when the parties involved in a case agree, then a screening panel is selected. The findings of this panel are completely confidential. Also, there is a discretionary periodic payment of all amounts that are more than \$300,000. If the persons involved in the case cannot make an agreement on the payment schedule in the first 60 days following the court's decision, then a lump sum payment will be awarded. Finally, the state of Connecticut has a voluntary pretrial screening period in all malpractice cases. A unanimous finding is admissible in the trial.

Medical malpractice law in **Delaware** can be complicated, and if you do not know the basics of the many laws in your state then you will have a difficult time winning your case. Medical malpractice is when a health care provider violates the standards of medical care and as a result the patient suffers some form of injury or death. Doctors that may be liable in these cases include doctors, counselors, psychologists, and psychotherapists.

Delaware State Malpractice Laws at a Glance:

	Delaware State Tort Law
Statute of Limitations	Two years from date of original injury or three years after injury is discovered as long as it was latent.
Damage Award Limits	No limit but punitive damages only available in cases of malicious intent or misconduct.
Joint Defendant Liability	There is no separation of liability
Expert Witness	The expert witness must have knowledge in similar field to defendant.
Attorney Fees	Limit on attorneys fees is on a sliding scale based on awarded damages.

Limits on the Malpractice Damages

Unlike other states in the country, there are no limits on damages that may be achieved from medical malpractice law in Delaware. However, punitive damages are allowed only in certain cases there is some form of malicious intent to injure, or some form of willful and wonton conduct on the part of the defendant.

Collateral Source Rule

There is a traditional collateral source rule that states that a defendant in a malpractice case may not try to reduce his or her liability in the case by providing evidence that proves that the defendant received some form of compensation from other sources. For example, if medical insurance covered the bills. Medical malpractice law in Delaware however, does allow the introduction of this type of evidence into a case however, for some form of discretionary offset.

Limits on Attorney's Fees and Other Rules

The state of Delaware does allow for some limits on the amount that a lawyer may collect in medical malpractice lawsuits. These limits are 35 percent on the first \$100,000 of the award, 25 percent of the next \$100,000 and 10 percent of all other additional awards. Some other miscellaneous rules include: all cases are reviewed by a medical negligence panel in order to be reviewed. The findings of the panel may be introduced during the trial as evidence. In some cases, the damages awarded to the defendant will be paid via installments. If the plaintiff dies before he or she can collect the entire award, compensation for the following payments will be made.

Finding the Right Lawyer

It is very important that you find a lawyer to handle your medical malpractice law suit. Because of the fact that the hospitals and physicians will be hiring the best lawyers that money can buy, it is obligatory that you likewise find an expert lawyer in the field of medical malpractice law in Delaware. A specialist will be less likely to make mistakes and will know all the details.

Medical malpractice law in the **District of Columbia** is a complicated process, so make sure that you have learned about it before you have filed your lawsuit. Medical malpractice is when an injury or death occurs due to the deviation of a physician from the governing standards. There are no limits in the state of District of Columbia to the damages that may be awarded.

Collateral Source Rule

Medical malpractice law in the District of Columbia subscribes to the collateral source rule. This rule states that a defendant in a medical malpractice law suit may not introduce evidence into the trial that prove that the plaintiff has already received some form of compensation, such as the payments made by insurance coverage for example.

Rules for Expert Witnesses

Expert witnesses will usually be called to testify as witnesses in a lawsuit concerning medical malpractice law in the District of Columbia. These witnesses are needed in order to prove that the physician did or did not follow the governing standards of health care at the time that the injury took place.

Joint and Several Liability

The District of Columbia still follows the rule of joint and several liability. This rule states that if there is more than one defendant in a medical malpractice lawsuit, that if one of the defendants can not pay the damages that he or she is liable for, then it is up to the other defendants in the case to pay it.

Statute of Limitations

There is also a statute of limitations when it comes to medical malpractice law in the District of Columbia. In this case, legal actions must begin within the first 3 years following the date that the injury took place on. The limitations period begins to run on the date of the defendants eighteenth birthday.

Limits on Attorney's Fees and Contributory Negligence

The District of Columbia does not have any limits on the amount of money that an attorney may charge for his or her services when it comes to medical malpractice. The District of Columbia also follows the traditional rule concerning contributory negligence. What this rule states is that a defendant may receive limited or no damages if he or she contributed to the injury in some way.

When you are having problems with medical malpractice law in the District of Columbia, make sure that you hire a lawyer that is a specialist in the field.

Medical malpractice law in **Florida** is where a patient is seeking compensation for a misdiagnosis or no diagnosis. The case could also be based on the fact that the appropriate treatment was not provided or was not provided in a timely manner.

Limitation Information

Medical malpractice law in Florida requires that non-economic damages can be awarded at a maximum of \$500,000 or if there is a death or the involved individual is in a vegetative state the maximum award given can total \$1 million. Non-economic damages are compensation for pain and suffering, and mental and emotional suffering as well. While punitive damages have a limitation of \$500,000 unless there is intent to harm then there will be no cap on the amount that can be awarded for punitive damages. Punitive damages are in place to more or less punish the defendant due to their misconduct.

For patients eight years and older malpractice cases must be started within two years of the case and cannot exceed four years. While children under the age of eight the malpractice case before the child's eighth birthday. An attorney cannot charge more than 30 percent on the first \$250,000 awarded, then the percentage drops to 10 after the initial \$250,000. In a case where joint and several liabilities are in place the limitations are handled in percentages. So whatever the jury decides each defendant is liable for is what they must pay and only their percentage.

Florida State Malpractice Laws at a Glance:

	Florida State Tort Law
Statute of Limitations	Two years from date of original injury or after injury was discovered. No later than four years from injury.
Damage Award Limits	For punitive damages, the limit is set to three times the economic damages or \$500,000, whichever is greater unless act is deemed intentional in which case no limit applies. For noneconomic damages, limit is \$500,000 per plaintiff. In the case of permanent vegetative state or death, limit is set to \$1 million.
Joint Defendant Liability	Proportionate liability for defendants
Expert Witness	The expert witness must be a licensed doctor at the same practice as defendant or must have been practicing for at least five years prior to claim.
Attorney Fees	Limited to 30% of first \$250,000 and 10% thereafter

Court or Arbitration

The case will be heard by a judge and they will decide what facts will be heard by the jury. If both sides agree the case can be arbitrated, which is not heard by a judge or jurors but rather arbitrators.

Expert Witness

Medical malpractice law In Florida states that there must always be an expert witness in the case. The witness should be in the same field of medicine as the defendant or must have been in practice for a minimum of five years. Remember that you do have the right to all doctor and hospital records, including malpractice information.

Other Information on Medical Malpractice Law in Florida

If a doctor has three malpractices will no longer be licensed by the state of Florida, this includes binding arbitration, court malpractice and administrative agency.

Medical Malpractice Lawyer

You should choose a lawyer that specializes in medical malpractice law in Florida due to the technical information needed. If anything is missed it could affect your case in great measures.

Medical malpractice law in **Georgia** is a very complicated matter for the patient and needs to be handled with the utmost care. Medical malpractice cases include; a misdiagnosis of a disease or condition or a failure to diagnosis the problem, a case can also be due to failure to treat the alignment of the failure to treat it in a timely manner.

Limitations in Georgia

You must file the case within two years of the incident, unless the patient does not realize the affects until after two years then the time limit can be extended. If the case is due to an instrument left in the body the time limit is one year for the date of the incident. No case can be opened after five years of the incident occurrence. These periods apply to minors as well. Punitive damages are capped at \$250,000 in medical malpractice law in Georgia.

Attorney fees have no limitations in the state of Georgia. Be sure that you interview several attorneys and be prepared for every appointment with all the paperwork needed. It is very important to [contact a lawyer](#) that is familiar with medical malpractice cases so that no technical points are missed in your case, which could cause a dismissal. In cases that are joint or have several liabilities the defendants are responsible for 100 percent of the judgment. Each party responsible for their judgment amount, if one is unable to pay the other becomes responsible. A defendant may not attempt to reduce the judgment by providing information on compensation already provided to the plaintiff. This will not affect the judgment. Even payments received from the plaintiff's insurance company will not be considered.

Georgia State Malpractice Laws at a Glance:

	Georgia State Tort Law
Statute of Limitations	Two years from date of original injury or death and not longer than five years from act or death.
Damage Award Limits	Limit of \$250,000 for punitive damages. Exception made if deliberate intention to harm.
Joint Defendant Liability	Proportionate liability for defendants
Expert Witness	Must have expert affidavit stating that there is sufficient evidence of negligence
Attorney Fees	No limits on attorneys fees

Arbitration

Medical malpractice law in Georgia claims that the case can be considered for arbitration if both sides agree, and understand that all the results will be binding. In an arbitration case there is no judge or jurors, just the arbitrators.

Expert Witness

Medical malpractice law in Georgia states that all that is needed from an expert witness is a affidavit stating that they see facts that support legal action being taken for negligence in the specified case. This is a very important part of your case so be sure to present your case with all the full information to the evaluating physician, this will help them give you a complete analysis of your situation.

Medical malpractice law in **Hawaii** is a very complicated matter and can bring on a great amount of stress. A malpractice case can involve any of the following cases; a misdiagnosis or a failure to diagnosis a condition or disease, it can also be that treatment was not received or not received in a timely matter. Try to be prepared for all proceedings. A malpractice case can be brought on any health care provider.

Hawaii State Malpractice Laws at a Glance:

	Hawaii State Tort Law
Statute of Limitations	Two years from date injury was discovered but not longer than six years from act
Damage Award Limits	Pain and suffering limit of \$375,000
Joint Defendant Liability	When defendant's negligence is deemed under 25%, damages will be proportionate to amount of fault
Expert Witness	No stipulations for witnesses
Attorney Fees	Fees to be approved by court

Limitations on Medical Malpractice Law in Hawaii

There is a current limit of \$375,000 set for pain and suffering. This limit however does not affect non-economic damages. You must file all cases within two years of the occurrence of the incident. If your case involves an object left in the body you must file within one year of the occurrence. If the case involves a minor you have until the child's tenth birthday to fill for malpractice. In cases that involve joint or several liabilities the parties are responsible for paying 100 percent of the judgment. If one of the defendants cannot pay their part then the other is responsible for the whole amount.

Medical malpractice law in Hawaii has no limits on what an attorney can charge for there fees. When you are interviewing attorneys you want to be sure that you are fully prepared. Be sure to take all paperwork with you, and have all the information you need with you. You do not want to have to come back and take more of your time and the attorney's. All claims that full under \$150,000 will be subject to mandatory nonbinding arbitration.

Expert Witness

Unlike many other states in the US, Hawaii has no special rule regarding expert witnesses. To be on the safe side you should consider having one, and be sure that you get all necessary paperwork from that provider.

Collateral

Medical malpractice law in Hawaii states that a defendant may not try to reduce the amount in the judgment due to payments or money already received by the plaintiff, this includes money from insurances. You should be considering a specialty lawyer for your medical malpractice case. They have the experience you will need. They will have all the technical terms under control; this is an important aspect so your case does not get dismissed due to an error. They can give you the guidance you need for a case that can be lengthy and can give you the strength that you will need.

The laws governing medical malpractice law in **Idaho** can be complex and confusing. Anyone who is anticipating involvement in a medical malpractice law suit should take the time to learn about what is involved. The following are some of the restrictions and requirements of a medical malpractice case.

Introduction to Statute of Limitations

Medical malpractice law in Idaho is covered by a statute of limitations which requires that the case be filed within two years of the cause of injury. There are two specific exceptions to this. Injury that is caused by a foreign object in the body has a statute of limitations two years from the discovery of the injury. When the person injured is a minor, or insane, at the time of the injury, the two year period does not begin until the child reaches majority or after the disability has ended. The two year period can not be delayed more then six years. While not specifically exempt, medical malpractice cases involving state agencies are subject to additional restrictions, including the requirement that all claims be filed with the Secretary of State within 180 days of the discovery of the injury.

Idaho State Malpractice Laws at a Glance:

	Idaho State Tort Law
Statute of Limitations	Two years from date of original injury. In the case of foreign objects, the later of one year from discovery or two years from injury.
Damage Award Limits	Punitive limit of \$250,000 or triple the amount of compensation damages. Limit of \$250,000 for noneconomic damages.
Joint Defendant Liability	Proportionate liability for defendants. Exception made in cases of intentional harm.
Expert Witness	The expert witness must have field knowledge and expertise in practice standards.
Attorney Fees	No limits on attorneys fees

Pre-Suit Mediation

Prior to being brought to trial, all cases of medical malpractice law in Idaho must be brought before a panel run by the Idaho state board of medicine for mediation. These proceedings are informal and non-binding.

Guide to Comparative Negligence

If the person injured is partially responsible for the injury, they can still bring suit so long as the medical professional being sued is at greater fault than the person injured. In cases where more than one medical professional is involved, the responsibility for the injury is compared between the injured party and each individual medical professional. In such cases, it is possible for the law to determine that some but not all of the medical professionals may be liable for damages. Additionally, a hospital may only be held liable for the negligent acts or omissions of its employees and agents. Injury caused by doctors who practice at the hospital, but are not employed there, cannot be brought against the hospital, only against the doctor.

The Requirement of Expert Testimony

For any case involving medical malpractice law in Idaho, the injured party must provide expert testimony that the defendant did not meet the appropriate standard of health care practice. This introduction is not a complete discussion of the relevant laws, but should provide a basic understanding of some of what is involved in medical malpractice law in Idaho.

Like any legal situation, medical malpractice law in **Illinois** can be complex and difficult to understand. While no article can cover everything involved, this will provide some basic information to help make the laws more understandable.

Introduction to Statute of Limitations:

The statute of limitations is the amount of time an injured party has to file a suit. For medical malpractice law in Illinois the standard malpractice statute of limitations is within two years of when the injured party became aware of, or 'should have known of' the injury. There are three exceptions to this law. If the injured party is under 18 years old when the injury occurs, the limitation period is 8 years from the date of injury, or until the minor turns 22, which ever comes first. Also, if the patient is mentally incompetent, the period of limitations does not begin to run until the disability is removed. Finally, an act of medical malpractice that results in death has a two year statute of limitations from the date of the death, as long as the original two year period based on date of injury has not run out at the time of death.

Illinois State Malpractice Laws at a Glance:

Illinois State Tort Law	
Statute of Limitations	Two years from date of discovery. In the case of wrongful death there is an additional two years if personal injury limit has not been reached at time of death.
Damage Award Limits	No limits but punitive damages not applicable
Joint Defendant Liability	There is no separation of liability
Expert Witness	The expert witness must be licensed in same field as defendant, 75% of time in preceding 10 years must have involved dealing with treatment that is at issue.
Attorney Fees	Limit on attorneys fees is on a sliding scale based on awarded damages.

Pre-Suit Mediation

Medical malpractice law in Illinois recommends but does not require mediation prior to bringing suit.

Guide to Comparative Negligence

In Illinois an injured party barred from bringing suit his contributory fault is more than 50 percent of the injury or damage for which recovery is sought. Additionally, a hospital may be held responsible for the acts of doctors on contract if the hospital acts in a fashion that leads to the reasonable conclusion that the contractor in question is an agent of the hospital.

The Requirement of Expert Testimony

When filing a law suit concerning medical malpractice law in Illinois, the injured party's attorney must provide an affidavit that an expert who has practiced or taught within the last six years in a relevant area of medicine, and is experienced in the issue at hand, has reviewed the medical record of the injured party, and any other relevant material, and concluded that there is a reasonable and just cause for the suit to be brought. The expert's report must be attached to the filing and affidavit, but the expert may, if he or she chooses, remain anonymous. Any inquiry into a case of medical malpractice in Illinois will require far more information and detail than can be easily included here, but this introduction should provide a solid basis for learning more about the law and its applications.

This article is an introduction to the basics of medical malpractice law in **Indiana**. The laws of medical malpractice are very complex, but some basic information can make it easier to understand the rights and obligations involved in any malpractice suit.

Indiana Medical Malpractice at a Glance

	Indiana State Tort Law
Statute of Limitations	Two years from date of medical injury.
Damage Award Limits	\$1,250,000 total, Liability limited to \$250,000 per care provider liable.
Joint Defendant Liability	There is no separation of liability
Expert Witness	Findings and testimony of medical panel qualify as expert witness.
Attorney Fees	Attorneys fees may not exceed 15% of patient compensation between \$250,000 and \$1,250,000

Introduction to Statute of Limitations

With a single exception, any medical malpractice suit must be brought within two years of the occurrence of the injury. For minors under the age of six this limitation is extended until the 8th birthday. The exception to this limitation is that in cases of a medical condition with a long latency period, the suit must be brought within two years of the discovery of the condition, or within two years of when the plaintiff had the information required to discover the condition, whether or not this information was pursued.

The Medical Malpractice Act

There are two separate sets of rules covering medical malpractice law in Indiana. The Medical Malpractice Act covers the majority of malpractice actions. The Medical Malpractice Act covers participants in the state-sponsored excess insurance program. It is important, in discussing any medical malpractice in Indiana, to distinguish between medical providers covered by the Medical Malpractice Act and those who are not.

Pre-Suit Mediation

All medical malpractice suits that are covered by the Medical Malpractice Act and involve claims for more than \$15,000 must be brought before a medical review board. The opinions of the board are admissible as expert opinions in any further legal action, but are not conclusive.

Guide to Comparative Negligence

Proof that the negligence of the injured party contributed to the injury in any way is sufficient to bar any suit from being brought under the Medical Malpractice Act. Otherwise, the Comparative Fault Act allows a suit to be brought if the plaintiff's fault does not exceed 50% of the total fault. The Comparative Fault Act does not apply to practitioners covered under the Medical Malpractice Act, or in claims against government entities or public employees.

Requirement of Expert Testimony

Expert testimony is normally, but not always required in any case of medical malpractice law in Indiana. It is not required in cases where the issue is one that a non-medical professional can be expected to understand. If the case falls under the Medical Malpractice Act, then the opinions of the members of the review panel may be submitted as expert testimony, in which case the plaintiff may not need to retain an expert for trial. This article presents a basic understanding of medical malpractice law in Indiana. For anyone contemplating entering into a medical malpractice action, a great deal of further information would be required.

While vastly simpler than the laws in many other states, medical malpractice law in **Iowa** is still governed by an occasionally confusing set of laws and precedents. The following is an introduction to basic information involved in a medical malpractice action, as well as a table that outlines the main medical malpractice laws in Iowa.

Iowa Medical Malpractice at a Glance

	Iowa State Tort Law
Statute of Limitations	Two years from discovery of injury, max six years from injury.
Damage Award Limits	No Damage Limits
Joint Defendant Liability	Proportional liability of defendants based on percentage of fault
Expert Witness	Expert must have qualifications directly relating to type of injury
Attorney Fees	Court will review plaintiffs attorney fees

Introduction to Statute of Limitations

Put simply, any suit regarding medical malpractice law in Iowa must be filed within two years of the date the claimant knew, or reasonably should have known, of the injury. However, regardless of the claimant's knowledge, no legal action can be brought after more than six years after the date of the alleged wrongful act. The maximum of six years is accepted in cases involving a foreign object in the claimant's body. A specific extension is granted to minors and the mentally ill, allowing them to bring suit up to one year from the date of majority, or removal of disability.

Pre-Suit Mediation

Medical malpractice law in Iowa does not require mediation or arbitration of a suit before it is brought to trial.

Guide to Comparative Negligence and State Liability

In cases of medical malpractice law in Iowa, a legal action is barred if negligence of the claimant exceeds the negligence of all other parties combined. A suit may be brought against the state of Iowa in cases involving state employees only if a written appeal is made to the state review board within two years of the negligent action.

Requirement for Expert Testimony

Actions for medical malpractice law in Iowa must provide proof of negligence in the form of expert testimony. The exception to this is when the negligence and lack of care is obvious enough to be understood by non-medical professionals. Additionally, when the basis of the medical malpractice suit is the standard of care given the plaintiff the court shall only allow a person to qualify as an expert witness and to testify on the issue of the appropriate standard of care if the person's medical or dental qualifications relate directly to the medical problem or problems at issue and the type of treatment administered in the case. (Iowa Code Ann. § 147.139)

While a review of similar laws in other states will make obvious the relative lack of complexity of medical malpractice law in Iowa, it is still a more complex area of law than can be presented in its entirety here. It is recommended that anyone contemplating legal action seek more detailed information and advice from a legal professional.

Medical malpractice law in **Kentucky** requires that any medical malpractice action be brought forward within one year of the time of injury or fatality or when it would have reasonably been discovered (as in the case of terminal disease, or pregnancy after a vasectomy). Statutes of limitations cannot begin to run against a minor or disabled person until the minor is of legal age and the disability has been lifted.

Kentucky Medical Malpractice at a Glance

	Kentucky State Tort Law
Statute of Limitations	One year from discovery, max five years from injury.
Damage Award Limits	No limits on damages
Joint Defendant Liability	Jointly liable defendants are responsible for court apportioned percentage of fault and damages.
Expert Witness	No provisions
Attorney Fees	No limits

Expert Testimony and Burden of Proof

Despite the fact that there are other possible areas of liability against a health care provider (assault, fraud, contract infringement, etc.), most of the claims are due to negligence of some kind on the side of the health care provider. Those who have suffered due to medical malpractice law in Kentucky have the burden of proof to supply all of the four elements necessary to prove negligence on the part of the health care provider. These are:

Duty of Care: Possesses the knowledge, skills, and the ability to apply said knowledge and skills in to be a health care practitioner.

Breach of Duty: Show proof that the medical practitioner didn't perform duties that another reasonably capable and competent practitioner would have performed.

Injury: Showing proof of injury caused by the medical practitioner that has caused the plaintiff to lose income, impair their ability to labor or earn money, and incur medical expenses.

Proximate Cause: Determination of proximate cause is factual not legal depending on whether or not the evidence proves that the results (injury or assault) were reasonably foreseeable.

Medical malpractice law in Kentucky requires an expert testimony in order to prove that the health care provider didn't provide appropriate standards of medical care. In the case of wrongful death, action can be brought about by a relative or personal representative of the deceased (spouse, child, parent, sibling, or power of attorney).

Payment Caps

Currently, medical malpractice law in Kentucky does not require a limit on the recoverable damages in actions of medical malpractice. Also, Kentucky does not set a cap on the amount a lawyer can charge their client in case of medical malpractice. The state of Kentucky does not require periodic payments of medical malpractice judgments. Physicians have a duty to competently perform under their doctor-patient relationship. Physicians have a duty, as part of his fiduciary relationship, to disclose a patient's medical information during medical malpractice proceedings.

Medical malpractice law in **Louisiana** claims that injury or death must be brought forth and filed within one year of said injury or wrongful death. [Common reasons](#) for medical malpractice actions are: misdiagnosis, failure to diagnose, a failure to provide competent and appropriate medical care for a condition, an unreasonable delay in treatment for a disease or condition that has been previously diagnosed. For no reason can a medical malpractice action be brought forward after three years. The Louisiana Supreme Court deems three years appropriate due to the fact that some diseases have a latency of up to three years. Any wrongful death action must be brought forth within one year of the person's death. The [statute of limitations](#) period for those under the age of 18 (minors) and disabled persons is the same for adults and those without disabilities.

Louisiana Medical Malpractice at a Glance

	Louisiana State Tort Law
Statute of Limitations	One year from injury, or discovery, but no more than three years from act.
Damage Award Limits	Recovery limit set at \$500,000.
Joint Defendant Liability	Defendants liable for percentage of fault determined by the court.
Expert Witness	Expert witness must have been licensed and practicing at time of injury.
Attorney Fees	No limit on attorney fees.

Expert Testimony Required in Medical Malpractice Law in Louisiana

Since most medical malpractice actions are brought against licensed and qualified health care providers, under Louisiana Medical Malpractice Act, medical malpractice actions are screened using a panel of one non-voting attorney, and three competent doctors. The duty of this screening is to determine whether or not the evidence proves that the physician or facility failed to act according to an appropriate level of care, or acted in a manner that was negligent, injurious, incompetent, or unlawful. Medical malpractice law in Louisiana, the panel's decision is considered as expert testimony in the action and is completely admissible as evidence in the case for or against the plaintiff. Prosecution or defense may call any member of the panel as an expert witness during court proceedings. An expert witness must be a licensed medical professional that specializes in the same area of practice at issue.

Payment Caps in Medical Malpractice Law in Louisiana

Medical malpractice law in Louisiana does not require a damage cap for those not insured by a state agency. Qualified health care provider's liability is limited to \$100,000. The state of Louisiana requires no limit to the amount (in fees) an attorney can charge his/her client for services provided during a medical malpractice action. Because medical malpractice is a highly technical field of law, it is recommended that in cases of medical malpractice, a [medical malpractice lawyer](#) should be retained. Louisiana medical malpractice lawyers are trained specifically in Louisiana medical malpractice laws and are invaluable during any medical malpractice action.

Medical malpractice law in **Maine** is based on the comparative negligence doctrine and has provisions for binding arbitration.

Below you will find a table outlining the general provisions for medical malpractice suits and tort law in Maine. For more detail, each element is discussed further in the article below. However, no amount of general information can beat the advice of a personal injury attorney when it comes to your specific case.

Maine Medical Malpractice at a Glance

	Maine State Tort Law
Statute of Limitations	Three years from date of injury
Damage Award Limits	There are only limits in wrongful death cases
Joint Defendant Liability	There is no separation of liability
Expert Witness	No provisions defined
Attorney Fees	One third of first \$100,000 25% of next \$100,000 20% of damages over \$200,000.

Statute of Limitations

In Maine, medical malpractice law stipulates that your case must be brought within three years of the alleged malpractice. There is no discovery provision. In foreign object cases timing starts when the injury is discovered, or should have reasonably been. Actions on behalf of minors must be brought within 6 years of the malpractice or 3 years after the minor reaches adulthood.

Comparative Negligence in Maine

The state follows a form of the modified comparative negligence doctrine, under which a claimant's actions are barred if they are found to be at equal fault. This state does not need a jury to reduce the damages, but rather must reduce the amount a 'just and equitable' amount. It doesn't have to be in proportion to the fault and a jury can reduce the damages by more than half without implying no suit should have been filed.

Joint and Several Liability

Tortfeasors in Maine can be liable for the entire judgment even if the fault is not entirely theirs. Defendants can request, however, that a jury determine their percentage of fault. It may not be binding though.

Expert Testimony in Maine

The state doesn't need a claimant to include an expert affidavit to the complaint, but expert testimony is required to establish a prima facie case of negligence.

Damage Caps

There is no cap on damages in the state of Maine, but non-economic wrongful death damages are limited to 150,000 and punitive damages to \$75,000.

Arbitration in Maine

A complaint needs to be filed with a pre-litigation screening panel. Before any medical malpractice claim can be filed in Maine.

The screening panel requirement has two functions, one is to encourage the early resolution of claims and the other is to facilitate the withdrawal of unsubstantiated claims. The pre-trial screening process can be waived, but only if all parties agree.

All involved parties are allowed to agree in writing to submit the claim to binding arbitration. They can also resort to a combined method wherein a court will hear some of the issues and the arbitration panel will hear the rest. The panel isn't empowered to decide dispositive legal issues.

The panel's findings, and any disclosures made at the hearing, are considered confidential and therefore must not be used later in subsequent litigation, except in cases where the arbitration panel decides unanimously in favor of either the plaintiff or the defendant.

The state of **Maryland** is one of the few states that follow the traditional common law doctrine of contributory negligence. The table below outline general guidelines of medical malpractice suits in Maryland. For more specific information, please see the explanations of each element below. For information or guidance about a specific case, [consult with a personal injury attorney](#).

Maryland Medical Malpractice at a Glance

	Maryland State Tort Law
Statute of Limitations	Three years from discovery of injury, or five years from act.
Damage Award Limits	Limit of \$650,000 for non-economic damages, increasing by \$15,000 per year after 2008.
Joint Defendant Liability	There is no separation of liability
Expert Witness	Witness must be actively involved in practice or education. May not spend more than 20% of time as expert witness
Attorney Fees	Maryland has no limits on attorneys fees

Maryland's Statutes of Limitations

In this state, malpractice actions need to be filed within five years from the injury or three years from the discovery of it, whichever is date is earlier.

The statute of limitations does not go into effect in the case of minors until the claimant has reached at least 11 years of age, and if it involves a foreign object or the reproductive system then it doesn't begin until the claiming is 16 years old. Maryland's highest court has upheld the principle that the five year part of the statute isn't measured from the date the treatment ends and doesn't violate the state's constitution.

Wrongful death actions can be initiated by the decedent's dependents. They have to be filed within 3 years of the death in question.

Contributory, Comparative Negligence in Maryland

Maryland is one of the few states that still follow the traditional common law doctrine of contributory negligence. In other words, any negligence by the claimant will bar his or her recovery entirely.

Joint Liability in the State of Maryland

Joint tortfeasors must assume and bear the responsibility for the misconduct of all. A tortfeasor who pays more than his or her prorated share has a right of contribution against other tortfeasors whose liability was extinguished by the judgment but who have not yet paid their share. Pro rata shares are determined by dividing the judgment equally among the tortfeasors.

Maryland and Vicarious Liability

A hospital may be held responsible for the negligent acts of independently contracted physicians working there in the state of Maryland, based on the principle of apparent agency.

Expert Testimony in the State of Maryland

A claimant needs to file a certificate from a qualified expert attesting to departure from standard of care as proximate cause of the alleged injury within 90 days of filing a medical malpractice claim with the Health Claims Arbitration Office

Damage Caps

The state limits recoverable non-economic damages from actions arising on or after October 1 1994 to 500,000, increasing 15,000 every 1 October subsequent to the specified date. Non-economic damages include pain and suffering, inconvenience, physical impairment, disfigurement, and other non-pecuniary damages but not punitive damages. The damage cap applies to each 'direct victim.'

Arbitration in the State of Maryland

Claims filed after 1 October 1995 may waive arbitration. If the arbitration panel finds the healthcare provider liable it then itemizes and apportions damages.

Medical malpractice law in the state of **Massachusetts** allows for equal division of liability among tortfeasors and vicarious liability of hospitals. You can find the main provisions set for medical malpractice suits in Massachusetts in the table below.

Massachusetts Medical Malpractice at a Glance

	Massachusetts State Tort Law
Statute of Limitations	Three years from injury
Damage Award Limits	\$500,000 for non-economic damages
Joint Defendant Liability	There is no separation of liability
Expert Witness	No provisions provided for
Attorney Fees	No more than 40% of first \$150,000 33.33% of next \$150,000 30% of next \$200,000 25% of damages over \$500,000

Statutes of Limitations in the State of Massachusetts

Any medical malpractice law action in Massachusetts needs to be filed within three years of the cause, but never more than seven years after the alleged act or omission occurred, except in the case of foreign object actions. A cause of action for medical malpractice accrues when a plaintiff learns or reasonably could have learned, that harm has been brought to him as a result of the defendant's conduct.

The statute of limitations for minors is the same as for adults excepting that a child under six can always be brought before the child's ninth birthday.

Massachusetts and Contributory or Comparative Negligence

Massachusetts follows the doctrine of modified comparative negligence. According to this, a claimant's action is barred if their own negligence exceeds the combined negligence of all defendants. Otherwise, the claimant's recovery is reduced proportionally according to his degree of negligence.

Joint and Several Liability In Massachusetts

Joint tortfeasors are severally liable, and have the right of contribution. Relative degrees of fault may not be considered in determining liability. Instead the judgment is divided equally among the tortfeasors.

Massachusetts and Vicarious Liability

If a physician is an actual agent of the hospital, the hospital can be held liable for his or her actions.

Expert Testimony Requirements in Massachusetts

Expert testimony has to be presented in support of a claim under medical malpractice in Massachusetts.

Damage Caps in Massachusetts

In all medical malpractice cases, juries are instructed that if they find the defendant or defendants liable, they cannot award the plaintiff more than \$500,000 for items of general damages unless it determines that there is substantial or permanent loss or impairment of a bodily function or substantial disfigurement, or other special circumstances.

Immunities in Massachusetts

Public employees, however, are immune from liability; only the state can be held liable for personal injury or wrongful death. A public entity's liability is limited to \$100,000 and they cannot be liable for punitive damages.

Charitable organizations have limited immunity for acts performed in pursuit of the organization's charitable purposes and their liability is capped at \$20,000 per occurrence.

Massachusetts Arbitration

A tribunal consisting of a judge, a physician, and a lawyer must review every medical malpractice action to determine whether "the evidence presented if properly substantiated is sufficient to raise a legitimate question of liability appropriate for judicial inquiry or whether the plaintiff's case is merely an unfortunate medical result."

The panel's findings, along with any expert testimony are admissible at trial

The **Michigan** legislature changed medical malpractice law in Michigan as of April 1, 1994, so information below may not apply to events before that date. You can find the general medical malpractice provisions in Michigan in the table and descriptions below.

Michigan Medical Malpractice at a Glance

	Michigan State Tort Law
Statute of Limitations	Two years from injury and six months from discovery. No suit may be brought beyond six years from injury
Damage Award Limits	\$280,000 for non-economic damages
Joint Defendant Liability	Defendants are proportionally liable for percentage of fault determined by court
Expert Witness	The expert witness must be licensed and board certified in area of similar specialty
Attorney Fees	Limited to one third of damages awarded

Michigan's Statutes of Limitations

In Michigan, the plaintiff has 2 years from commission of the act or omission that the claim is based on. Otherwise it can be brought within 6 months after the claimant discovers (or could have) the existence of the claim, as long as it is within 6 years of the actual act. There are exceptions, however.

If you may have legal questions or need legal help regarding a Medical Malpractice Case, [consult with a Medical Malpractice Attorney in your area](#) for a free case review in exploring your legal options.

Contributory or Comparative Negligence in Michigan

Michigan's malpractice laws fall under the doctrine of pure comparative fault, with only one exception. A claimant's negligence does not bar recovery, but can cause damages to be reduced proportionally to the claimant's percent at fault. The exception is that if the claimant's fault is greater than the sum of the fault of all other persons, then he or she cannot recover any non-economic damages.

Joint and Several Liability in Michigan

The liability of each person is distributed in direct proportion to the person's percentage of fault in any action for personal injury or wrongful death in the state of Michigan. When assessing each party's percentage of fault, the trier of fact has to consider the fault of persons who are not parties, including those who have settled. If the claimant is without fault, the defendants are jointly and severally liable. Contribution. Joint tortfeasors who pay more than their share of a common liability a right of contribution are afforded a right of contribution by the state's laws.

Vicarious Liability in Michigan

Michigan courts recognize the doctrine of ostensible agency, in which a hospital can be found liable for the acts of a physician not actually its agent or employee. The critical factor in determining ostensible agency exists is whether If the patient reasonably looked to the hospital for treatment, the hospital may be vicariously liable, whereas if the patient merely viewed it as the site for treatment by his physician, they are not.

Michigan Law and Expert Testimony

Expert witnesses in medical malpractice cases must be healthcare professionals practicing or teaching the same specialty as the defendant and must have the same board certifications. The malpractice complaint has to be accompanied by an affidavit of merit.

No Sovereign Immunity in Michigan

Michigan has for the most part waived sovereign immunity for negligent medical care. All medical malpractice actions must be reviewed by a mediation panel.

Medical malpractice law in **Minnesota** has an extremely strict statute of limitations for filing actions, at two years with very few exceptions, and does not cap non-economic damages. See the table below for a rundown of Minnesota medical malpractice provisions.

This information is a general guideline, [consult with a medical malpractice attorney](#) for case specific information.

Minnesota Medical Malpractice Law

	Minnesota State Tort Law
Statute of Limitations	Four years from injury or end of treatment.
Damage Award Limits	No limitations on damages
Joint Defendant Liability	Defendants are proportionally liable for damages based on percentage of fault determined by court
Expert Witness	An affidavit must be filed by the claimant stating that an expert has been consulted
Attorney Fees	Minnesota has no limits on attorneys fees

Minnesota's Statutes of Limitations

All liability claims against health care providers in Minnesota, regardless of the nature of the injury or basis of the action, must be brought within two years of when the cause of the action accrued. There are few exceptions although infants are allowed seven years from the date of the occurrence.

Contributory or Comparative Negligence in Minnesota

Minnesota follows the doctrine of modified comparative negligence which bars the action if his or her fault exceeds the combined fault of all defendants, and diminishes his or her claim according to his or her own negligence.

Joint and Several Liability in Minnesota

Minnesota uses modified joint and several liability in that generally a person whose fault is fifteen percent or less is liable for a percentage no greater than four times his percentage of fault. If one of the defendants is uncollectible, the court will reallocate that defendant's share to the others. Contribution in Minnesota is in proportion to percentage of fault.

Vicarious Liability in Minnesota

Minnesota does not allow ostensible or apparent agency to hold a hospital liable for the negligent acts of its non-employee physicians. A hospital can only be held vicariously liable for the acts of employees.

Expert Testimony in Minnesota

In Minnesota, an affidavit of expert testimony supporting the action must be filed within 180 days of filing the action itself.

Damage Caps in Minnesota

Minnesota does not cap the damages that can be awarded in a medical malpractice case, and is one of the few states with no such cap.

Immunities in Minnesota

Minnesota waived immunity from liability for acts conducted by state employees acting within the scope of their employment. The state and its agencies are immune from liability when the loss results from the usual care and treatment where reasonable means were used to provide for the patient's care. The state is immune from liability for punitive damages, and its liability for compensatory damages is limited to \$300,000 per claim and \$1,000,000 per occurrence for claims arising on or after January 1, 2000.

Arbitration in Minnesota

Minnesota does not specifically stipulate that medical malpractice cases be arbitrated prior to litigation. However, the state courts are authorized to establish a system of mandatory, non-binding arbitration to assist in disposing of any controversy that could lead to civil litigation.

Medical Malpractice law in **Mississippi** includes provisions passed as part of a tort reform act in 2002, which apply to lawsuits filed on or after 1 January 2003, as described below.

The table and article below outline general provisions for medical malpractice suits in **Mississippi**, however, it is highly recommended that anyone suffering from a wrongfully caused medical condition [consult with an attorney](#) to discuss the details of the specific case.

Mississippi Medical Malpractice Provisions

	Mississippi State Tort Law
Statute of Limitations	Two years from discovery or injury
Damage Award Limits	\$500,000 limit for non-economic damages
Joint Defendant Liability	Each defendant is liable for thier proportion of damages based on percentage of fault
Expert Witness	Expert witness must be a licensed physician
Attorney Fees	No limit on attorney fees

Statutes of Limitations in Mississippi

In Mississippi, the action must be brought within two years of the alleged act, neglect or omission's discovery. This includes death claims. Claims accruing after July 1 1998 must also be brought within seven years of the act, neglect or omission itself. The state's laws have special provisions for cases involving fraudulent concealment or foreign objects.

Minors or the mentally disable are afforded extended time for action based on their status on the date of the cause of action's discovery (or when it could have been expected to be discovered). Minors under the age of 6 have to file suit within 2 years of the child's death or 6th birthday.

As of 1 January 2003, medical malpractice actions cannot be filed in Missouri until the expiry of a sixty-day waiting period after giving the defendant written notice. The statute of limitations is extended to accommodate this.

Mississippi and Contributory or Comparative Negligence

Mississippi follows the doctrine pure comparative negligence. The doctrine is as follows: the claimant's contributory negligence does not bar recovery, but proportionally reduces recovery.

Joint and Several Liability in Mississippi

In a malpractice action based on fault in Mississippi, each tortfeasor is liable only for their own direct proportion of the damages according to their proportion of the fault that the award is based upon. Fault must be assigned to any absent tortfeasors as well as those with immunity.

This does not, however, apply to acts committed with specific wrongful intent. A right of contribution still exists in cases of joint liability wherein the liable took part in a common plan to commit wrongful acts.

Vicarious Liability in Mississippi

Hospitals are not generally liable for the negligent acts of independent contractor physicians in Mississippi. A hospital that holds itself out as providing the service, and where the patient engages the hospital's service without regard to the physician's identity, aligns the hospital for vicarious liability. A hospital held vicariously liable is entitled to indemnity from the negligent physician.

Expert Testimony in Mississippi

Expert medical testimony is necessary in Mississippi to prove medical negligence except in cases where "a layman can observe and understand the negligence as a matter of common sense and practical experience."

Mississippi Damage Caps

The state caps non-economic damages at \$500,000.

Arbitration

Mississippi does not require arbitration.

Medical Malpractice law in **Missouri** follows the doctrine of pure comparative negligence, and has rigorous requirements for establishing vicarious liability.

Missouri's Statutes of Limitations

Any medical malpractice action must be brought within two years of the occurrence of the alleged malpractice, according to Mississippi law. If the claim involves a foreign object, the claimant is allowed two years from discovery to bring an action, but no more than ten years from the date of the alleged act. A minor under the age of ten has until his or her twelfth birthday to bring action. Wrongful death must be brought within three years of the death in question.

Missouri State Malpractice Laws at a Glance:

	Missouri State Tort Law
Statute of Limitations	Two years from date of original injury or in the case of a foreign object, 2 years from date of discovery
Damage Award Limits	Limit for noneconomic damages adjusted annually, currently around \$565,000
Joint Defendant Liability	Proportionate liability for defendants
Expert Witness	Expert affidavit must be filed within 90 of start of claim
Attorney Fees	No limits on attorneys fees

Contributory or Comparative Negligence in Missouri

Missouri's Supreme Court adopted the pure form of comparative negligence in 1983. The doctrine states that the claimant's contributory fault does not bar recovery, but will diminish damages in proportion to their degree of fault.

Missouri Law and Joint and Several Liability

Where fault is apportioned, Missouri courts will enter judgment against each liable party according to the rules of joint and several liability. Any defendant who faces paying damages is jointly and severally liable only with those defendants whose percentage of fault is equal to, or less than, his or her own. Joint tortfeasors in Missouri have a right to contribution.

Vicarious Liability in Missouri Law

In Missouri, a patient's belief that an emergency room physician is an employee of the hospital is insufficient to subject the hospital to vicarious liability. Several factors are considered when establishing a Missouri hospital's vicarious liability: whether the physician gets paid directly by the hospital or bills the patients directly; whether the physician has an office there, and many other factors.

Expert Testimony in Missouri

The claimant has to file an affidavit with the court verifying that a legally qualified health care provider rendered the opinion that the defendant caused or contributed to the claimant's damages. This must happen within 90 days of filing.

Missouri's Damage Caps

A claimant in Missouri is limited to approximately \$500,000 in non-economic damages, adjusted annually to inflation by the director of the Division of Insurance.

Missouri Immunities

The state and its political subdivisions are immune by the doctrine of sovereign immunity. It does not extend to state employees, including individual doctors and nurses, who may be sued. State employees may purchase up to liability insurance. Their immunity for punitive damages remains intact.

Arbitration in Missouri

Missouri law does not require arbitration in cases of medical malpractice.

Medical malpractice law in **Montana** is currently in a state of flux, especially in regard to contributory or comparative negligence and joint and several liability.

Statutes of Limitations in Montana

Medical malpractice actions alleging personal injury or wrongful death have to be brought within three years from the date of injury or discovery. Action cannot be brought under any circumstances more than five years from the date of the injurious event.

Montana State Malpractice Laws at a Glance:

	Montana State Tort Law
Statute of Limitations	Three years from date of original injury or discovery but not longer than five years from act.
Damage Award Limits	\$250,000 limit to noneconomic damages. Punitive damages decided by court.
Joint Defendant Liability	Proportionate liability for defendants, exception made when a defendant is found to be over 50% liable.
Expert Witness	No stipulations for witnesses
Attorney Fees	No limits on attorneys fees

Contributory or Comparative Negligence in Montana

Montana law has not quite stabilized yet as the legislature have passed alternative versions of statutes on comparative negligence, joint and several liability and other aspects for causes of action that arise on or after April 18, 1997.

Montana has adopted the doctrine of modified comparative negligence, under which a claimant's action is barred if his negligence exceeds the combined negligence of all defendants and otherwise it will be reduced d in proportion to the claimant's own negligence.

Montana Law and Joint and Several Liability

In Montana, a party 50 percent or less liable is severally liable only. Otherwise, the tortfeasor is jointly and severally liable with all other tortfeasors. If for any reason a contribution of one party cannot be obtained, other parties must contribute a proportionate share of their unpaid share. Montana is a state that does afford joint tortfeasors a right of contribution in medical malpractice actions.

Vicarious Liability in Montana

An ostensible agency is legally created when the principal causes a third person to believe another to be his agent. Montana courts have recognized that this doctrine imposes liability on hospitals for the negligence of its independently- contracted physicians.

Montana Requires Expert Testimony

Expert testimony is necessary in Montana to establish a cause of action for medical malpractice.

Damage Caps in Montana

Montana imposes a limit of \$250,000 on the non-economic damages a claimant can recover in actions initiated after October 1, 1995.

No State Immunity for Montana

Montana waived its immunity and that of all of its political subdivisions. The state's liability is limited to \$750,000 per claim and \$1,500,000 per occurrence.

Arbitration and Montana Law

The Montana Medical Legal Panel must review any medical malpractice actions that are not subject to a valid arbitration agreement before any complaint can be filed in the state's district court. The panel decides whether there is substantial enough evidence that the acts occurred and were malpractice, and that the claimant was injured by the acts. Their decision is neither binding nor admissible in court.

Medical malpractice law in **Nebraska** stipulates a strict 2-year statute of limitations, and the state's courts have yet to address whether ostensible or apparent agency can be used to hold a hospital liable for the acts of its physicians.

Statutes of Limitations in Nebraska

Medical malpractice actions must commence within two years of the act or omission that provides the basis of the action, or within a year of discovery (or within a year of when the act or omission could reasonably have been expected to be discovered). In no case may an action be commenced more than 10 years after the act or omission. If the claimant is under the age of 21, the limitations period begins at 21; if the claimant is mentally disabled the limitations period does not begin until the disability is removed. Wrongful death actions must be brought within two years of the decedent's death.

Nebraska State Malpractice Laws at a Glance:

	Nebraska State Tort Law
Statute of Limitations	Two years from date of original injury or one year after injury was discovered.
Damage Award Limits	\$500,000 limit to health care provider liability, any excess to be paid out of the Excess Liability Fund. Total damages not to exceed \$1, 750,000.
Joint Defendant Liability	Proportionate liability for defendants where noneconomic damages are concerned. Joint liability in the case of economic damages.
Expert Witness	No stipulations for witnesses
Attorney Fees	No limits on attorneys fees, however court can intervene if thought unreasonable.

Contributory or Comparative Negligence in Nebraska

Nebraska observes a form of comparative negligence doctrine in which a claimant's negligence bars recovery only if it is equal to, or greater than, the total negligence of all defendants. Claimant's damages are reduced by the percentage which they are negligent, and slight negligence on the part of the claimant can reduce what the claimant may recover.

Joint and Several Liability in Nebraska

The liability of each defendant in a Nebraska medical malpractice action is joint and several, but liability for non-economic damages is several only and these damages are allocated by percentage of negligence. The exception is when the act or omission was part of plan to cause harm, in which case all damages are considered both joint and several. The right to contribution becomes enforceable in Nebraska when one tortfeasor discharges more than her or his proportionate share of the judgment.

Vicarious Liability is Nebulous in Nebraska

Nebraska courts have not yet addressed whether the theories of ostensible or apparent agency can be used to hold a hospital liable for acts of its independently-contracted physicians.

No Expert Testimony in Nebraska

Nebraska law doesn't stipulate expert testimony in medical malpractice cases.

Damage Caps in Nebraska

Nebraska generally imposes no limits on recoverable compensatory damages.

Arbitration in Nebraska

A medical review panel must review all malpractice claims against qualified health care providers before an action can be brought, unless the claimant affirmatively waives the review in writing.

The sole duty of the medical review panel is to determine whether there is sufficient evidence to support the conclusion that the defendants acted or failed to act in such a way that damages were proximately caused by medical malpractice. The panel's decision is non-binding; but its opinion is admissible in any subsequent proceedings.

Medical malpractice law in **Nevada** has a statute of limitations of 4 years, follows a doctrine of modified comparative negligence, and does not cap damages.

Statutes of Limitations in Nevada

Medical malpractice actions initiated in the state of Nevada for [personal injury](#) or wrongful death must be brought within 4 years from the date of the injury or 2 years from the date the injury was discovered, or should have been discovered, whichever is earlier.

Parents or guardians of a minor claimant are responsible for the minor's claim and must adhere to the statutes of limitations stipulate above. In actions involving brain damage or birth defects, the limitation is extended until the child is age ten.

Nevada State Malpractice Laws at a Glance:

	Nevada State Tort Law
Statute of Limitations	After October 1, 2002 -- three years from date of original injury or one year after injury is discovered. Prior to this date, four years from date of original injury or two years after injury is discovered.
Damage Award Limits	Limit of \$350,000 for noneconomic damages. Punitive damages allowed in cases of fraud, malice, or oppression and limited to \$300,000 or triple the amount of compensation damages.
Joint Defendant Liability	Proportionate liability for defendants
Expert Witness	An expert affidavit must be filed by someone in a similar field to the defendant or case will be dismissed.
Attorney Fees	Limit on attorneys fees is on a sliding scale based on awarded damages.

Contributory or Comparative Negligence Doctrine in Nevada

Nevada follows a doctrine of modified comparative negligence under which a claimant's action is barred if his negligence is greater than the combined negligence of all the defendants. If not, the claimant's recovery is reduced in proportionally according to his degree of negligence.

Joint and Several Liability in Nevada

Each tortfeasor in a Nevada tort action is liable only for the portion of the damages his or her percentage of negligence, as stipulated by the jury. The state's statutes specify "negligent acts committed by providers of health care while working together to provide treatment to a patient" are not concerted acts and that the liability of health care providers is, therefore, several only.

Vicarious Liability in Nevada

When a hospital selects a doctor to serve the patient, the doctor is considered to have apparent authority on behalf of the hospital because the patient might reasonably assume that the doctor an agent of the hospital.

Expert Testimony in Nevada

Medical malpractice claimants in Nevada must offer "expert medical testimony, material from recognized medical texts or treatises or the regulations of the licensed medical facility wherein the alleged negligence occurred" which must demonstrate a deviation from the standard of care.

When the damage is caused by a foreign substance left in the body, an explosion or fire of a substance used in treatment, a burn caused by radiation or chemicals, injury to a part of the body not involved in the treatment, or surgery on the wrong person or wrong body part, no expert testimony is required.

Arbitration in Nevada

Nevada stipulates potential medical malpractice claims have to be reviewed by a screening panel before a complaint can be filed. After that, the parties attend a settlement conference, and trial ensues only if they cannot reach an agreement.

Medical malpractice law in **New Hampshire** is subject to a three-year statute of limitations, and joint tortfeasors are both generally and severally liable.

Statutes of Limitations in New Hampshire

New Hampshire's two-year statute of limitations on malpractice suits has been held to violate the state's constitution. The general statute of limitations is three years, and if the injury could not have been discovered reasonably at the time of the act or omission, the statute runs from the time the plaintiff discovers or if the plaintiff should have discovered the injury.

New Hampshire State Malpractice Laws at a Glance:

	New Hampshire State Tort Law
Statute of Limitations	Two years from date of original injury or two years after injury is discovered.
Damage Award Limits	No limits.
Joint Defendant Liability	Proportionate liability for defendants
Expert Witness	The expert witness must be trained and qualified to provide care in the defendant's field of expertise.
Attorney Fees	Fees based on sliding scale. If case is settled out of court the limit is 25% up to \$50,000.

Contributory or Comparative Negligence in New Hampshire

New Hampshire's modified doctrine of comparative negligence stipulates a claimant's action is barred only if his or her fault exceeds the combined fault of all defendants, and is diminished in proportion to the degree of his or her faults.

Joint and Several Liability in New Hampshire

Joint tortfeasors are generally jointly and severally liable in New Hampshire, except for tortfeasors less than 50 percent at fault. They are only severally liable. Additionally, a right of contribution exists among joint tortfeasors who are jointly and severally liable.

Vicarious Liability in New Hampshire

New Hampshire courts have not considered whether the theory of ostensible or apparent agency can be used to assign liability to a hospital for physicians who are not its employees.

Expert Testimony Required in New Hampshire

Medical malpractice claimants need to present expert testimony to support their claims.

Damage Caps in New Hampshire

The New Hampshire Supreme Court upheld a \$250,000 cap on non-economic damages in cases of medical malpractice.

Damages recoverable in an action over wrongful death, damages may not exceed \$50,000 unless the recovering party is a spouse, child, parent, or any dependent relative. Damages are never awarded for losses of society and companionship in wrongful death cases in New Hampshire except to a surviving spouse, and these are capped at \$150,000.

Immunities in the State of New Hampshire

Compensatory damages are limited to \$250,000 per claimant and \$2,000,000 per occurrence. Interest may be added, but not punitive damages in tort actions against the state.

Governmental units of the state of New Hampshire, including any county, city, town, or other corporate body within the state, can be held liable for damages in a bodily injury action arising out of the operation of its premises.

No Arbitration Requirement in New Hampshire

The state of New Hampshire does not stipulate that medical malpractice actions need to be referred to binding arbitration.

Medical malpractice law in New Jersey includes a statute of limitations of two years, modified comparative negligence doctrine, and very little in the way of provision for vicarious liability for hospitals in cases of medical malpractice.

Statutes of Limitations in New Jersey

Any personal injury action in New Jersey, including a medical malpractice action, must be brought within two years of the date the cause of action accrued. The cause does not accrue as long as a party is reasonably unaware that either he or she has been injured, or that the injury is due to the fault of an identifiable person. If the claimant is under 21 or insane, the time doesn't start until the disability is removed. Wrongful death actions must be brought within two years of the date of death.

New Jersey State Malpractice Laws at a Glance:

	New Jersey State Tort Law
Statute of Limitations	Two years from claim accrual or discovery of injury.
Damage Award Limits	Punitive damages limited to the greater of either \$350,000 or 5 times the amount of compensation damages.
Joint Defendant Liability	If defendant is found to be less than 60% at fault they will be responsible for a share of the damages. Defendants found more than 60% at fault are subject to further rules.
Expert Witness	Must be a licensed physician in the same field as defendant and be able to administer the same care as that which is in question.
Attorney Fees	Fees based on a sliding scale: 1/3 of first \$500,000, 30% of additional \$500,000, 25% of next \$500,000, and 20% of next \$500,000.

Contributory or Comparative Negligence in New Jersey

The doctrine of modified [comparative negligence](#) applies in New Jersey. This doctrine states that a claimant's action is barred if his negligence is greater than that of all defendants combined. The claimant's recovery is then diminished in proportion to his percentage of negligence.

Joint and Several Liability in New Jersey

Each party's percentage of the combined negligence must be determined, and then any defendant whose negligence is sixty percent or more is jointly and severally liable for the claimant's entire damages. A defendant whose negligence is less than 60 percent is severally liable only and therefore only responsible for the portion of the claimant's total damages corresponding to his or her percentage of the negligence.

Vicarious Liability in New Jersey

The state's courts generally do not hold hospitals liable for the negligent acts of non-employee physicians. However, the doctrine of ostensible or apparent agency applies where it would be natural for a patient to assume that his treating physicians were employees of the hospital.

Expert Testimony in New Jersey

The plaintiff must file an affidavit by an expert witness stating that there is a reasonable chance that the care, skill, or knowledge exercised in the treatment fell outside acceptable professional standards. This must happen within 60 days of filing the action.

Damage Caps in New Jersey

No defendant is liable for any punitive damages in any action for an amount in excess of the greater of five times the liability of that defendant for compensatory damages, or \$350,000.

Arbitration in New Jersey

If the amount in controversy is \$20,000 or less, New Jersey requires personal injury claims be referred to an arbitrator. The arbitrator's decision is inadmissible and non-binding.

Medical malpractice law in **New Mexico** adheres to the strict form of comparative negligence, making New Mexico one of the few states to do so.

Statutes of Limitations in New Mexico

Any malpractice action in New Mexico, whether it is for injury or wrongful death, must be brought within 3 years from the date when the act or omission occurred. A minor under 6 years of age has until his or her 9th birthday to bring the malpractice action.

The state's Supreme Court ruled that the statute might be unconstitutional under some circumstances. The case that prompted this ruling involved a child who had suffered cardiac arrest. 2 years, 280 days after the last treatment, the court ruled that eighty-five days was too short in this case.

New Mexico State Malpractice Laws at a Glance:

	New Mexico State Tort Law
Statute of Limitations	Three years from date of original injury.
Damage Award Limits	Limit of \$200,000 liability for health care providers, anything in excess to be paid from Patient's Compensation Fund. Total damages not to exceed \$600,000.
Joint Defendant Liability	Proportionate liability for defendants. Exception made in cases of deliberate intent to harm.
Expert Witness	No stipulations for witnesses.
Attorney Fees	No limits on attorneys fees

Contributory or Comparative Negligence in New Mexico

New Mexico has adopted the pure form of comparative negligence wherein a claimant's negligence can't bar recover but will only reduce the claimant's recovery proportionally to his or her own negligence.

Joint and Several Liability in New Mexico

Where comparative negligence applies, a tortfeasor is only liable for the portion of the judgment equal to his share of fault. Joint tortfeasors are jointly and severally liable for that portion of any judgment equal to their combined share of fault when one tortfeasor's liability may result in the vicarious imposition of liability on the other.

Vicarious Liability in New Mexico

Hospitals are not generally liable for the acts of independent contractors who are members of the medical staff, and in the state of New Mexico are only liable for their employees. The exception is when a hospital exercises enough managerial control over an employee to make him a de facto employee is a question that must be decided by jury.

Expert Testimony According to New Mexico Law

Expert testimony Is necessary to prove a claim for medical malpractice, unless the alleged negligence is so obvious that it will be within a layman's comprehension.

Damage Caps in New Mexico

The state of New Mexico enforces a cap of to all damages except punitive damages and damages for medical expenses. The limit does not include future medical expenses. If a plaintiff requires future medical care, the expense must be paid as incurred.

Arbitration

The state's medical review commission must review any claim for medical malpractice in the state of New Mexico. The commission's findings are not binding and not admissible in any subsequent court proceedings.

Medical malpractice law in New York includes a two and a half year statute of limitations, a pure comparative negligence doctrine, and any vicarious liability on the part of the hospital is a result of the control the hospital exercises over the practitioner, and expert witnesses are not deposed before trial commences.

Statutes of Limitations in New York State

Any medical malpractice action must be brought within two and a half years from the act or omission, or from the end of the continuous treatment of which the act or omission was part. Foreign object cases may be brought up to one year from the date when the foreign object is discovered. A claimant's incompetency (insanity or infancy) belays the statute of limitations until the disability ceases but can only extend up to ten years. Wrongful death suits must be brought within two years of the death in question.

New York State Malpractice Laws at a Glance:

	New York State Tort Law
Statute of Limitations	Two and a half years from date of original injury or one year after injury is discovered.
Damage Award Limits	No limits
Joint Defendant Liability	Proportionate liability for defendants for noneconomic damages except in cases where defendant is found to be more than 50% at fault. Where economic damages are concerned, defendants may be jointly liable.
Expert Witness	Expert must submit consultation within 90 days of claim being filed.
Attorney Fees	Fees based on a sliding scale. Maximum percentage for first \$250,000 is 30%, for the next \$250,000 it is 25%, for additional \$500,000 it is 15%, and 10% for anything over \$1,250,000.

Contributory or Comparative Negligence in New York State

New York is a pure comparative negligence state, which means a claimant's negligence, no matter how great, will not bar recovery, but will reduce damages proportionally.

Joint and Several Liability in New York State

New York generally holds joint tortfeasors both jointly and severally liable. Any joint tortfeasor whose liability is 50 percent or less is severally liable only for the claimant's non-economic losses. Non-parties are not counted.

Vicarious Liability in New York State

Hospitals are not vicariously liable for the acts of non-employee members of the medical staff in New York. A hospital can, however, become liable because of the control it exercises over independent contractors.

Expert Testimony in New York

A claimant must file a certificate that verifies the claimant's attorney has consulted an expert witness or, alternatively, that such an expert could not be obtained within the 90 days allowed for filing. This does not apply when *res ipsa loquitur* is the only theory alleged.

Expert testimony will, however, be required at trial, unless the matter is within the ordinary experience and knowledge of laymen. Expert witnesses are generally not deposed prior to trial, and while qualifications must be disclosed the expert's identity need not be.

No Damage Caps in New York

New York does not limit recoverable damages.

No Governmental Immunities

The State of New York has waived its immunity, and that of its political subdivisions.

Arbitration in New York State

A defendant can concede liability in exchange for an agreement to arbitrate damages, but arbitration is not otherwise mandatory.

Medical malpractice law in **North Carolina** imposes a three-year statute of limitations and full joint and several liability on tortfeasors, while stipulating that contributory negligence may bar recovery of damages completely.

Statutes of Limitations in North Carolina

In North Carolina, medical malpractice suits have to be brought within three years of the last act of the defendant giving rise to the cause of action, or within a year of the date when the injury was discovered (or should have been), but not more than four years from the date of the last act giving rise to the cause of the action.

Foreign object cases need to be brought within a year from the date of discovery, but within ten years of the date of occurrence. Medical malpractice cases resulting in wrongful death must be brought within two years of the death in question.

The same rules apply for malpractice actions on behalf of minors with the exception that the child's action (but not that of the parents) may also be brought any time before the child's nineteenth birthday.

North Carolina State Malpractice Laws at a Glance:

	North Carolina State Tort Law
Statute of Limitations	Three years from date of original injury or one year after injury is discovered but not longer than four years from injury. In cases of foreign objects, one year from discovery but not longer than ten years from act.
Damage Award Limits	Limit of punitive damages to greater of \$250,000 or triple the economic damages.
Joint Defendant Liability	Separation of joint and several liability is recognized.
Expert Witness	Must be licensed doctor and be qualified to testify regarding community care standards.
Attorney Fees	No limits on attorneys fees

Contributory or Comparative Negligence in North Carolina

A claimant's contributory negligence bars recovery completely according to North Carolina medical malpractice law. Although the claimant cannot be found contributorily negligent for the behavior that caused him or her to require treatment in the first place, he or she may be found to be barring treatment by his or her acts or omissions.

Joint and Several Liability in North Carolina

Tortfeasors in North Carolina are subject to both joint and several liability. A joint tortfeasor against whom judgment is entered is liable for the entire amount of the judgment, regardless of the tortfeasor's share of fault.

No Vicarious Liability in North Carolina

North Carolina does not appear to follow the doctrine of apparent or ostensible agency in order to impose liability on hospitals for the negligent acts of their non-employee physicians.

Expert Testimony in North Carolina

Claimants must show expert testimony demonstrating a breach of the standard of care, except in cases where the negligence is obvious to a layman.

No Damage Caps in North Carolina

North Carolina does not generally limit the compensatory damages recoverable in medical malpractice actions. After January 1, 1996, punitive damages are limited the greater of three times compensatory damages or \$250,000. Statutory Cap on Attorneys' Fees.

Arbitration

The General Assembly of the state has authorized a system of court-ordered mediated settlement for all types of cases. A court order and good cause are required to dispense with mediation altogether.

Medical malpractice law in **North Dakota** stipulates a 2 year statute of limitations and has replaced joint and several liability with a rule wherein each party is responsible financially only for the damages they themselves cause.

Statutes of Limitations in North Dakota

An action must be brought within two years from the date of the cause of the action in North Dakota. While the state does recognize a discovery rule, which can extend the period of limitations to 2 years from the date the injury should have been discovered, it can be extended no more than 6 years after the actual injury. Courts presume the occurrence is discovered (or should have been) at the time of death, so in wrongful death cases, the suit must be filed within 2 years of death. The insane or incarcerated are exempted but action must be brought within one year of the cessation of the disability in question.

North Dakota State Malpractice Laws at a Glance:

	North Dakota State Tort Law
Statute of Limitations	Two years from date of original injury or after injury is discovered but not longer than six years from act. Exception made in cases of fraudulent concealment.
Damage Award Limits	Court may review economic awards greater than \$250,000. Limit of \$500,000 for noneconomic damages.
Joint Defendant Liability	Proportionate liability for defendants, exceptions may be made in cases of deliberate harm.
Expert Witness	No stipulations for witnesses.
Attorney Fees	No limits on attorneys fees.

Contributory or Comparative Negligence in North Dakota

North Dakota follows a doctrine of modified comparative negligence, meaning a claimant's action is barred if his fault is equal to or greater than the combined fault of all others who contributed to the injury. The claimant's recovery is reduced in proportion to his or her degree of fault.

Joint and Several Liability in North Dakota

North Dakota has eliminated joint and several liabilities in personal injury and death cases. Instead stipulates each tortfeasor is liable only for the amount of damages attributable to the percentage of fault of that party."

Vicarious Liability in North Dakota

Hospitals granting staff privileges to a negligent doctor in North Dakota can be held liable under a theory of negligent staffing.

Expert Testimony in North Dakota

Claimants must obtain a supporting expert opinion in the state unless it is a case of obvious malpractice, and the expert opinion must be rendered within three months of filing a medical malpractice claims.

Damage Caps in North Dakota

After April first 1995, there is a \$500,000 cap on non-economic damages in medical malpractice suits. Regardless of how many defendants or family members sue this cap is in effect. The jury may award economic damages in an unlimited amount, but the court upon a party's motion must review amounts exceeding \$250,000. Punitive damages are limited to twice compensatory damages plus \$250,000.

Immunities

North Dakota has abolished governmental tort immunity as it relates to all political subdivisions, but not the state government.

Arbitration

In North Dakota, the claimant's attorney must inform the claimant about all alternative dispute resolution options available to him before filing suit.

Medical malpractice law in **Ohio** has changed quite a bit due to malpractice reforms implemented as of April 2003.

Statutes of Limitations in Ohio

Any action must be commenced within one year of the discovery of the act or negligence upon which the action is based, according to Ohio law. A four-year statute of repose has been added for claims arising out of acts or omissions on or after April 11, 2003. A claim must be brought within 4 years of the act or omission, within one year from discovery.

Malpractice resulting in death gives rise to both claims of personal loss and suffering prior to death, enforceable by the decedent's personal representative, and wrongful death claim by spouse and next of kin.

Ohio State Malpractice Laws at a Glance:

	Ohio State Tort Law
Statute of Limitations	One year from date of original injury or four years after injury is discovered. In cases of foreign objects, one year from date injury is discovered.
Damage Award Limits	Limit for noneconomic damages is the greater of \$250,000 or three times the economic damages, to a maximum of \$350,000 per plaintiff to a maximum of \$500,000 per occurrence. No limits for economic damages.
Joint Defendant Liability	Proportionate liability for defendants except in cases where the defendant is found to be greater than 50% at fault.
Expert Witness	Witness must be licensed doctor or a surgeon that devotes 75% of his/her time teaching or practicing in a clinical setting.
Attorney Fees	No limits on attorneys fees

Contributory or Comparative Negligence in Ohio

In Ohio, the claimant's contributory fault bars recovery only if it exceeds the combined fault of all other persons, whether or not they are named in the suit. Otherwise recovery is diminished proportionally to their fault.

Several Liability Only, Generally, in Ohio

Multiple defendants are severally liable only if they jointly caused the injury in question. Each defendant's share of the judgment is proportional to his or her percentage of fault and non-parties may be included in the calculation. Intentional tortfeasors and defendants with more than 50 percent of total fault, however, are jointly and severally liable for economic damages.

Contribution

Vicarious Liability in Ohio

Under the doctrine of respondeat superior, a hospital may be held liable for torts committed by its employees and under agency by estoppel, it may be held liable for the negligence of physicians who are not its employees if the patient looks to the hospital, as opposed to the individual physician, to provide competent medical care.

Expert Testimony Requirements in Ohio

Expert testimony must be presented to establish the prevailing standard of care in actions involving a medical professional's skill and judgment. Additionally, expert testimony must be presented that supports a breach of that standard, and proximate cause.

Damage Caps in Ohio

Ohio caps non-economic damages at the larger of \$250,000 or three times economic damages, to a maximum of \$350,000 per plaintiff and a maximum of \$500,000 per occurrence. These amounts increase to \$500,000 per plaintiff and \$1 million per occurrence if the plaintiff has suffered physical deformity, loss of use of a limb, organ system, or permanent physical injury that prevents self-care.

Arbitration in Ohio

Ohio does not require actions be referred to arbitration. However, the state permits them to be, and such arbitration is nonbinding and may not be admitted as evidence at trial.

Medical malpractice law in **Oklahoma** is similar to that of many states and includes all manner of hospital employees and patients. In the case of most medical malpractice law, malpractice is defined by leaving the patient worse off than when they began. In some cases, it is very difficult to ascertain when malpractice has occurred, due to the lack of previous medical history or medical records. In the case of those individuals who are clearly defined as medical malpractice victims, the law is very clear and rulings are generally very swift on the subject. Without this particular type of law in place, many individuals would be left to their own devices after suffering from medical malpractice. Oklahoma is very clear on the subject of medical malpractice and requires that doctors and hospitals carry insurance against plaintiffs who might resort to medical malpractice lawsuits after receiving substandard service or having been the recipient of a doctor's attention that ends in tragedy.

Oklahoma State Malpractice Laws at a Glance:

	Oklahoma State Tort Law
Statute of Limitations	Two years from date injury is discovered.
Damage Award Limits	Noneconomic damages limited to \$300,000. Punitive damages may also be awarded depending on particulars of case. No limits for cases of wrongful death or negligence.
Joint Defendant Liability	Proportionate liability for defendants except in cases where the defendant is found to be greater than 50% at fault or in cases of deliberate misconduct or recklessness.
Expert Witness	The expert witness must either be a licensed doctor or be trained and qualified in medical area pertinent to claim. May be retired or still practicing in service areas relevant to claim.
Attorney Fees	Fees not to be greater than 50% of net judgment.

Slipping Through the Cracks

Unfortunately, there are many patients who are completely unaware that these types of malpractice laws exist. Malpractice law in Oklahoma requires that the individual file suit within seven years of the disputed service. This means that quite often, individuals who are unaware that they have been poorly mistreated at the hands of their medical professionals have missed the boat and are unable to demand compensation for medical malpractice. In these cases, there is little recourse on the part of the patient and the seven-year limit brings with it a finality that cannot be overruled by the court system. In the case of children, this can be specifically difficult, as many times the subject of malpractice does not become apparent for many years, resulting in the awareness of the malpractice coming outside of the seven-year window.

Filing Suit

Filing for medical malpractice is not that difficult, requiring a standard court-based legal motion, usually filed by a certified attorney at the discretion of the patient. Quite often these types of motions are filled with all manner of boilerplate and difficult to understand litigation. Because of this, it is generally advised that individuals allow their lawyers to file the paperwork, rather than attempt to muddle through this extremely difficult topic on their own. Without legal training it can be almost impossible to understand medical malpractice law in Oklahoma to the same extent as the local attorneys. For this reason, it is recommended that individuals seek the assistance of a competent attorney.

Medical malpractice law in **Oregon** is somewhat straightforward and contains very little subterfuge or boilerplate in the language of the law. For the most part, those who are afflicted with worse damages after having been serviced by the doctor then they suffered from previously are considered to be eligible for malpractice compensation. Of course, this is all subject to the rulings of the courts and new precedents are being set all the time. Without a strong understanding of law, it can be almost impossible to assume that an individual will lose or win a malpractice case in the case of medical malpractice. With so many doctors practicing medicine at any given time, it is not hard to understand that medical malpractice can be an extraordinarily difficult concept for lawmakers to maintain as a straightforward concept. There are so many different types of [medical malpractice](#) law in Oregon that individuals and patients who have suffered from medical practice have made all manner of different types of claims in the state courts. With so many different types of medical malpractice claims, it can be almost impossible to make a blanket statement and each case has to be judged on its own merits.

Oregon State Malpractice Laws at a Glance:

	Oregon State Tort Law
Statute of Limitations	Two years from date of original injury or after injury was discovered but not longer than five years from act.
Damage Award Limits	Punitive damages will not be awarded in cases where the physician is found to be acting without malice and within normal scope of duties.
Joint Defendant Liability	Proportionate liability for defendants
Expert Witness	No stipulations for witnesses.
Attorney Fees	Limit of 20% of punitive damages. No percentage limits to economic damages.

Defining Medical Malpractice Law in Oregon

The definition of medical malpractice law in Oregon is somewhat basic and, when taken directly from the law books, is easy to understand. Of course, once that law is built into actual practice, it is a completely different matter and subject to the court's rulings. With so many different lawyers, doctors and plaintiffs all working over the same statute, it is only natural for the exact nature of medical malpractice law to fluctuate. As more and more precedent is set every day for different types of medical malpractice law, the absolute meaning of medical malpractice law is never set in stone. Considering how many patients are the victim of medical malpractice and how many doctors are called to court to defend themselves from medical malpractice law, it is not hard to understand how the issue could be misunderstood.

Learning More About Medical Malpractice Law in Oregon

While the definition of medical malpractice law is somewhat straightforward, the actual practice is always elusive and difficult to nail down. With this ephemeral property inherent in the nature of the law itself, medical malpractice law in Oregon, while substantially different from any other state, can be as alike or as dissimilar as any other state, depending on the patient, the doctor and the attorney involved in the particular case. Since every case is so vastly different from the next, only a case by case study can shed light on these particular situations and conditions.

When dealing with medical malpractice law in **Pennsylvania**, it is important to understand that all these different types of laws are open to interpretation and are very likely to be more dependent on the plaintiff, the attorney and the doctors involved in any particular medical malpractice suit. With the law and the state charter providing a method of recourse for victims of medical malpractice, it is only natural to find medical malpractice laws on the books for individuals to take advantage of. By offering a method for plaintiffs to seek redress from doctors who are negligent in their care of their patients, the state of Pennsylvania makes it very clear that there is a line which doctors may not cross and patients have sufficient rights to follow-up on any less than exemplary service from their physicians. With this law in place, medical malpractice victims have a means to seek [compensation](#) from physicians who are criminally negligent or do not sufficiently perform their duties in a responsible manner. With so many medical malpractice laws in Pennsylvania, it is not uncommon to see a multitude of attorneys focusing on this specific issue.

Pennsylvania State Malpractice Laws at a Glance:

	Pennsylvania State Tort Law
Statute of Limitations	Two years from date of original injury or after injury is discovered.
Damage Award Limits	Punitive damages available only in cases of deliberate misconduct or reckless disregard. No limits otherwise.
Joint Defendant Liability	Proportionate liability for defendants except where defendant found to be more than 60% at fault or in cases of deliberate misconduct.
Expert Witness	An attorney will sign the complaint certifying that he or she has consulted an expert who will be able to testify to relevant position.
Attorney Fees	No limits on attorneys fees

Defining Medical Malpractice Law in Pennsylvania

With the endless parade of doctors and lawyers in the world, it is almost impossible to arrive upon a set standard definition of medical malpractice law in Pennsylvania or any other state. With so many individuals fighting courtroom battles on a regular basis, the subtleties and meanings of each individual statute are bandied about and interpreted in many different ways, depending on the vagaries and conditions of the lawsuit itself. In the case of medical malpractice law in Pennsylvania, it is only natural that attorneys for the plaintiffs will bring suit and that attorneys for the defendant will defend their clients vigorously. With so much battling back and forth, the subtleties of the law are constantly changing and extraordinary difficult to define in any concrete fashion.

Understanding Your Rights

In the case of the plaintiff, the medical malpractice law in Pennsylvania is very clear that the plaintiff has the right to bring suit against their physician if they are under the belief that medical malpractice has taken place. While the definition itself of medical malpractice might be somewhat difficult to nail down, filing suit against physicians is far more simple a matter and requires only that the proper paperwork is filled out and filed at the local courthouse, usually by a competent practicing attorney.

Medical malpractice law in **Rhode Island**, much like the medical malpractice law in other states, is subject to all manner of constant litigation and efforts by attorneys to interpret and redefine the law. While so many individuals are busy attempting to sue doctors and physicians under the medical malpractice law in Rhode Island, it can be somewhat difficult to understand the exact letter of the law and exactly what the rights of the victims might be. While the state statute specifically provides for malpractice rights for the patient, the efforts of attorneys can turn these lawsuits aside, despite the fact that some of them have merit. While it is important to understand that although medical malpractice law is set by state lawmakers, practicing attorneys make their living by interpreting the laws in different ways. In this way, medical malpractice law in Rhode Island is always fluid and always subjected to interpretation by attorneys and plaintiffs.

Rhode Island State Malpractice Laws at a Glance:

	Rhode Island State Tort Law
Statute of Limitations	Three years from date of original injury, after injury was discovered or death, including suits brought by agents for those deemed incompetent.
Damage Award Limits	No limits for damages. However, the collateral source rule requires the jury to reduce damages awarded by a sum equal to the difference between total benefits received and total amount paid to secure benefits by plaintiff.
Joint Defendant Liability	Proportionate and separate liability are not separated.
Expert Witness	The expert witness must demonstrate sufficient training/education levels. Published statements presented to the court which are found to be relevant and whose author is recognized as expert, are admissible as evidence.
Attorney Fees	No limits on attorneys fees.

Defining Medical Malpractice Law in Rhode Island

Naturally, with so much effort at litigation and different types of court battles, the law can be somewhat difficult to interpret in a concrete fashion. What ever is decided today could be changed tomorrow or some type of new precedent can come along and redefine the way that the concept of medical malpractice in Rhode Island is defined. With so many individuals making so much effort at interpreting the law in their own fashion to suit themselves, it is only natural for the law to evolve in some manner, eventually becoming something far different than what was originally construed by the state lawmakers in the original statute. While it is only common for this type of evolution to occur, it is hard to believe that this is what the lawmaker's intentions originally were.

Rights of the Victims

In the case of those who feel that they have suffered from medical malpractice, it is their right to file suit against the offending physician and make their case in a court of law. Until such time as the judge has made his ruling, the situation is considered to be fluid and is usually difficult to understand. It is also important to keep in mind that each case is substantially different and nothing is cut and dried in the battle for recognition by medical malpractice law in Rhode Island. As long as attorneys continue to engage in legal wrangling in the courts, the law will continue to evolve and continue to represent different things to different people.

With so many different individuals making medical malpractice law in **South Carolina** their topic of discussion in legal wrangling, it is hard to nail down the exact nature of medical malpractice law in the state. As long as attorneys continue to battle it out in every courtroom, the exact definition of medical malpractice in South Carolina will never be clearly defined. This is largely due to the fact that as long as there are laws, there will be lawyers who make their living on fighting over the nature of each law. In the case of medical malpractice law in South Carolina, the law clearly states that individuals have certain inalienable rights to seek recourse against physicians who are negligent or otherwise unable to properly perform their duties. In these cases, most physicians are required to carry medical malpractice insurance and are largely insulated from the efforts of attorneys to squeeze money out of them through the offices of the lawsuits that are found on a regular basis to be somewhat ineffective. As more and more attorneys seek damages for their clients, the law continues to be changed and shaped in the eyes of the people.

South Carolina State Malpractice Laws at a Glance:

	South Carolina State Tort Law
Statute of Limitations	Three years from date of original injury or after injury was discovered. After six years from the original injury, a suit may not be brought. In cases of foreign objects, two years after discovery.
Damage Award Limits	No limits on damages.
Joint Defendant Liability	Joint and several liability is not separated.
Expert Witness	No provisions set on witnesses.
Attorney Fees	No limits on attorneys fees

Who is Protected Under Medical Malpractice Law in South Carolina?

With so many individuals practicing law and practicing medicine, it is only natural for the definition of medical malpractice law in South Carolina to change on a regular basis. With the natural evolution of law comes new precedents and new vagaries of meanings. What was once considered set in stone, can be changed over the course of time by constant litigation and constant legal wrangling. Until this type of legal wrangling subsides, there will continue to be a strong debate as to the letter of the law pertaining to medical malpractice law in South Carolina. In the case of those who are considered to be worse off after visiting their doctor than they were before, the clear case of medical malpractice can make all the difference in the world for those who have a legitimate medical malpractice claim.

Constant Evolution of Medical Malpractice Law In South Carolina

With this constant changing of the law, it can be difficult to ascertain exactly what the rights of the victims are at any given moment. Fortunately, the clarifying of certain specific points is left to the courts, who do their duty remarkably well and consider the definition of medical malpractice to be within the realm of understanding. By clearly defining the law, new precedent can be set dealing with medical malpractice law and those who are subjected to its rulings and vagaries on a regular basis.

Medical malpractice law in South Dakota is considered to be a straightforward and clearly defined matter. In reality, very few laws are straightforward in any way, shape or form. With constant legal wrangling, the definition of the law can change on a regular basis, depending on what precedent has been set and what most recent legal rulings have been made. In the case of medical malpractice law in South Dakota, the law sets forth a very clear set of circumstances that enable individuals to sue for medical malpractice from their physician. These circumstances can include all manner of negligence and different types of oversight that doctors are required to provide. Without the specific type of negligence being in clear and abundant attendance, it is difficult to prove the case of medical malpractice in most cases. While it is true that patients quite often win medical malpractice cases, it is also true that others, who at first blush would seem to be more deserving, are often overruled, despite grievous injuries and evidence to the contrary.

South Dakota State Malpractice Laws at a Glance:

	South Dakota State Tort Law
Statute of Limitations	Two years from date of original injury by action or failure to act.
Damage Award Limits	Noneconomic damages limited to no more than \$500,000. Special damages are unlimited.
Joint Defendant Liability	Proportionate liability for defendants based on percentages of fault. However, defendants liable for less than but not equal to 50% are not jointly liable for more than twice percentage of fault allocated.
Expert Witness	No limits on witnesses.
Attorney Fees	No limits on attorneys fees.

Defining Medical Malpractice Law in South Dakota

While the exact definition of medical malpractice law was necessarily set down in in the statutes quite some time ago, the constant litigation and court battles over the years have subtly and effectively changed the very meaning of medical malpractice law in South Dakota to a vast extent. What was once considered to be set in stone is now considered to be the subject of much debate and has evolved into a completely different subset of legal argument. As long as physicians and attorneys meet head-to-head in the courtroom on a regular basis, it is very likely that the individual cases that make up the bulk of medical malpractice law in South Dakota will continue to set new precedent and continue to shape and change the face of law over the years to come. Until such time as precedents are repealed or the original law is re-examined, it is logical to assume that medical malpractice law and South Dakota will continue to evolve over a considerable period of time.

The Rights of the Victims

As a patient, the medical malpractice law in South Dakota protects individuals from certain liberties that doctors take, including all manner of negligence and oversight. As long as your attorney can make his case, it is very likely that you have every right to protection from attorneys and doctors under the medical malpractice law in South Dakota.

With so much obscurity surrounding medical malpractice law in **Tennessee**, it is not surprising that so many attorneys and so many doctors spend so much time arguing the case in front of a court of law. With all of this litigation and battling to be victorious in the eyes of the court, it is only natural that the law would evolve over the years. With this particular type of evolution comes a difficulty in understanding the exact letter of the law. While it is true that medical malpractice law in Tennessee is set down in the statutes, it is also true that much constant litigation has changed the meaning of the letter of the law and caused all manner of difficulty in the matter of correct interpretation of the law in the modern day. Considering the amount of attorneys arguing the case on a regular basis, it is not surprising that so much effort is put into reinterpreting the law in a way that benefits the patient more so than the doctor. As a continuing flood of individuals proceed to file suit against physicians, the evolution of medical malpractice law in Tennessee will continue its natural slide into becoming an instrument for the prosecution of physicians on a regular basis.

Tennessee State Malpractice Laws at a Glance:

	Tennessee State Tort Law
Statute of Limitations	One year from date of original injury or after injury was discovered. After three years from the original injury, a suit may not be brought.
Damage Award Limits	No limits on damage awards
Joint Defendant Liability	Statutes include provisions for joint and several liability, but may be overridden by State Supreme Court.
Expert Witness	The expert witness must have practiced in corresponding specialty for one year preceding date of injury, and be licensed in the state or contiguous state.
Attorney Fees	Attorneys fees limited to no more than 1/3 of awarded damages.

Defining Medical Malpractice Law in Tennessee

Arguing on the side of the plaintiff, it is only natural for [attorneys](#) to make every effort to cast physicians in a harsh light. With this effort comes precedent-setting legal rulings that cause all manner of changes to be made to existing law. With each precedent that is set in a court of law, future generations of plaintiffs have procured more ammunition against the physicians which they are battling in a court of law on a regular basis. With this effort to come out ahead in the battle against a physician, it is only natural to cite these types of precedents in their legal effort. When constant precedent is alluded to, it is only natural that the law itself would evolve to resemble that which is argued on a regular basis on the part of attorneys for the plaintiffs. Although not all plaintiffs are successful, in the case of medical malpractice law in Tennessee, when enough successful plaintiffs argue the same position, it sets a new precedent and causes all

manner of changes to occur in the way that medical malpractice law in Tennessee is viewed and considered.

Understanding the Rights of the Victims

While it is true that medical malpractice law can sometimes be reinterpreted and construed on the behalf of the patient, it is also true that many plaintiffs who are otherwise deserving can be left with little recourse and are quite often on the losing side of the legal argument. In these cases, despite extreme suffering, the plaintiffs can be relegated to a position of minimal compensation, if any.

Anyone who is familiar with medical malpractice law in any state can very likely give you a rough description of medical malpractice law in **Texas**. Resembling that of many neighboring states, medical malpractice law in Texas has evolved slightly less than the law in other states, where precedent is considered to mean slightly less and holds less value and weight in each individual case. With thousands of attorneys constantly arguing cases in favor of the plaintiff, it is only natural for most law to evolve into a highly effective instrument against physicians and other types of defendants. With this evolution of the law, it isn't surprising to see so many individuals making the attempt to shore up their case against physicians by citing precedent from other cases. With all of this alluding to previous cases of malpractice, it would seem very natural that the law reflect that which has gone before, causing the evolution that changes the interpretation of these laws in such a radical fashion.

Texas State Malpractice Laws at a Glance:

	Texas State Tort Law
Statute of Limitations	Two years from date of original injury. After ten years from the original injury, a suit may not be brought.
Damage Award Limits	\$250,000 limit per claimant for noneconomic damages in suits not levied against health care institutions. \$500,000 limit per claimant for noneconomic damages for other suits.
Joint Defendant Liability	Proportionate liability for defendants, unless found to be more than 50% at fault.
Expert Witness	The expert witness must have practiced in the last year, and/or demonstrate knowledge of current accepted standards of practice.
Attorney Fees	No limits on attorneys fees.

Defining Medical Malpractice Law in Texas

While the very definition of medical malpractice law in Texas is very clear, it is still subject to the whims and vagaries of the ever evolving court system. One of the least liberal court systems in the United States, the Texas judiciary system consists of a very strong and clear cut set of rules and regulations that makes it nearly impossible for individuals to circumvent the pre-decided laws that the state of Texas has set forth in its statutes. Among these laws, the medical malpractice law in Texas has enjoyed a high level of protection over the years. With so many individuals arguing against attorneys, it is not surprising that precedent holds very little importance in cases of medical malpractice in the state of Texas. This is a function of the extremely conservative court system in the state of Texas and has been successful at removing the influence of precedent in the evolution of state law in general and in the case of medical malpractice law in particular.

Understanding the Rights of the Plaintiff

In the state of Texas, if you are a victim of malpractice, the law is clearly on your side and your rights are stated very strongly in the statutes themselves. By initiating litigation against a practicing physician, you are making a case that there is a severe amount of negligence involved, to an almost criminal extent, and that you are acting in your own self-interest in order to receive compensation for negligent treatment. With these rights in place, anyone can make the case that their physician has been negligent in the treatment of their patient.

Medical malpractice law in **Utah** is a matter of state statute and has been clearly defined on a number of occasions by the state itself. With this concrete description, it is difficult for attorneys to overturn rulings by judges that are based on statutory law. The reason that Utah is so strict in the definition and the interpretation of statutory law is because of the obvious tendency for precedent to cause an evolution in the meaning of the law. In the case of medical malpractice law in Utah, it is important for the law itself to remain strident and meaningful and to retain the interpretation that lawmakers originally intended when setting down statutory laws for the state. As more and more attorneys argue the point, it becomes clear that evolution of law is largely a byproduct of setting new precedent. With all of this new precedent in place, it can be difficult in many cases to understand the original intent of the framers of the law. Rather than circumvent what these individuals wanted for the statute itself, judges are encouraged to avoid following precedent too closely and to make rulings based on the original statutory laws set down by the state's lawmakers.

Utah State Malpractice Laws at a Glance:

	Utah State Tort Law
Statute of Limitations	Two years after injury was discovered, not to exceed 4 years after the act. After four years from the original injury, a suit may not be brought. In cases of foreign object or fraud, 1 year after injury was discovered, regardless of federally protected status.
Damage Award Limits	Noneconomic damages for actions arising after July 1, 2002 limited to \$400,000. Administrative Office of Courts adjusts this limit annually.
Joint Defendant Liability	Proportionate liability for defendants.
Expert Witness	No provisions for witnesses.
Attorney Fees	No limit on base fees. Contingency fee may not exceed 1/3 of award.

Defining Medical Malpractice Law in Utah

The definition of medical malpractice law in Utah is one of the most concrete and least open to interpretation in the United States. While there are many states which allow constant rulings in litigation to subtly change the meaning of medical malpractice law, the state of Utah is not one of these and requires that their judiciary system take their cues from the original statutory law, rather than allow precedent to hold sway over the ruling of the court. Basically, despite what ever rulings attorneys may recently have come to be successfully argued in front of the court, it is

statutory law, set down by the framers of the state constitution, which receives the lion's share of attention in court. By encouraging their strict interpretation, the evolution of the medical malpractice law in Utah has been kept to a minimum and attorneys can count on a specific set of rules and instructions in order to prosecute each and every law.

Understanding the Rights of the Plaintiff

In the case of the plaintiff, while it is true that precedent is certainly not intended to carry the day in the state of each, it does have its place in the court of law. Understanding your rights means understanding the rights of those of gone before you and it would serve the plaintiff well to understand the vagaries of their case as well as cases that are similar and have been successfully argued before the court in the past.

In Vermont, the medical malpractice law has been set down by the statutes, similar to many other states. In this case, legal precedent has been allowed to change the law slightly as different types of precedent has been set over the years. With these different types of legal arguments and a different understanding of medical malpractice law in Vermont, it becomes clear that a constant evolution of law is more common in the state than in others. Because of this liberal application of legal rulings, the court is very largely considered to be somewhat fickle and in control of the ruling in its own way. As more and more plaintiffs and attorneys argue the point in front of a court of law, it becomes clear that there is no particular way to predict the outcome of any medical malpractice law that is being argued in a court in Vermont.

Vermont State Malpractice Laws at a Glance:

	Vermont State Tort Law
Statute of Limitations	Three years from date of original injury or two years after injury was discovered. Two years from discovery of foreign object. After seven years from the original injury, a suit may not be brought. However, fraud cases have no statute of limitations.
Damage Award Limits	No limits.
Joint Defendant Liability	Proportionate and joint liability are not separate.
Expert Witness	No provisions are made for witnesses.
Attorney Fees	No limits on attorneys fees.

Defining Medical Malpractice Law in Vermont

By understanding the very definition of medical malpractice law in Vermont, the plaintiff can more clearly understand what their rights are and how they should proceed in arguing their point in a court of law. First and foremost, the law defines malpractice as damages caused by negligent physicians who have caused suffering beyond that that previously existing in the patient. With all of these vagaries and somewhat whimsical definitions, it is largely up to the attorney representing the plaintiff to argue the point, in contrast with the attorney representing the physician, in order to make the argument to the court that a substantial hardship and suffering has occurred and that the physician is largely to blame, in so far as they have made the situation worse instead of better. Unfortunately, this argument is largely dependent upon the attorney's ability to sway the court and present the letter of the law in a favorable light to their case.

The Rights of the Plaintiff

In regards to medical malpractice law in Vermont, the plaintiff has the right to bring their physician to court in cases where they are worse off after treatment than they were before treatment. This means that those who sought out the care of their physician and were left worse off than they were before they sought the care of the physician are able to sue for medical malpractice. Since the law has evolved over the years, it is critical that the attorney for the plaintiff to prepare their case distinctly and functionally in order to prove their point.

Medical malpractice law in **Virginia** has been set forth in the statute framed by the lawmakers of the state in the Constitution. With the state constitution clearly alluding to [medical malpractice laws](#), it is unlikely that much litigation and precedent is known to sway the court in making a decision in individual cases. Despite this, the strength of a medical malpractice case largely lies with the power of the attorney to sway the court. With the natural abilities of attorneys to make arguments that cast the defendant in a harsh light, it is only natural for plaintiffs to hire the most talented lawyers that they can find. With these types of competent attorneys, there is a good chance that they can win their case simply on the strength of argument and the severity of their injuries. While it is true that malpractice cases are very often overturned in the state of Virginia, it is also true that the physicians themselves are required to carry all manner of medical malpractice insurance in order to protect themselves and insulate themselves from medical malpractice cases. As long as these types of cases exist, the law itself will continue to evolve, although somewhat slowly, in order to address all these individual precedents.

Virginia State Malpractice Laws at a Glance:

	Virginia State Tort Law
Statute of Limitations	Two years from date of original injury or after injury was discovered. After ten years from the original injury, a suit may not be brought. In case of foreign objects, no more than two years after discovery.
Damage Award Limits	Recovery damages limited to \$1.95 million.
Joint Defendant Liability	Several and joint liabilities are not separated
Expert Witness	Expert witness must have up-to-date license and have currently active clinical practice in defendant's field or comparable specialty.
Attorney Fees	No limits on attorneys fees

Defining Medical Malpractice Law in Virginia

With the medical malpractice law so clearly set forth in the state statutes, it is clear that there is little argument that can be allowed in the definition of medical malpractice law in Virginia. As more and more attorneys make their point and set precedent, it is extremely tempting for judges in the court system itself to begin to sway and lean towards the evolution of law that has taken effect in so many other states. Considering the lack of an extremely liberal court system, Virginia has seen less evolution of the law and any closer adherence to the letter of the statutory law that was set down by the framers of the state constitution and the individual statutes themselves. In

this way, Virginia very largely makes the attempt to follow what the lawmakers originally intended, rather than what has been argued and set down by individual attorneys over the years.

Who is Protected!

In the state of Virginia, medical malpractice law provides for the protection of individuals who are worse off after treatment than they were before seeking out their physician for treatment of existing ailments. In the case of those who are unfamiliar with certain specific types of injuries and ailments, a physician's attorney and might be required in order to understand the vagaries and delicate matters involved.

Over the years, medical malpractice law in **Washington** has become a thing of much debate. Considering the fact that Washington is a somewhat liberal state and contains all manner of judges and attorneys who have conflicting views on the very nature of medical malpractice law in Washington, it is not surprising that so much debate takes place and that so many individuals are content to argue the point in a court of law. When any patient makes the attempt to sue for medical malpractice, it is only natural for them to seek out an attorney. It is also only natural for attorneys to argue their case with fervor and zeal, causing all manner of difficulty in interpreting the letter of the law as more and more attorneys and physicians conduct themselves in a battle over legal wrangling. It is not surprising that the law itself has shown a tendency to evolve, following precedent set by these types of legal rulings.

Washington State Malpractice Laws at a Glance:

	Washington State Tort Law
Statute of Limitations	Three years from date of original injury or one year after injury was discovered. After eight years from the original injury, a suit may not be brought.
Damage Award Limits	No specific limits set. Damages awarded for noneconomic damages cannot exceed formulation of average annual wage and reasonable life expectancy of injured.
Joint Defendant Liability	Proportionate liability for defendants, except in cases where defendants are found to be acting jointly with others.
Expert Witness	No specific limitations on witness
Attorney Fees	Determined by the court for both parties.

Defining Medical Malpractice Law in Washington

As long as medical malpractice law in Washington continues to be the subject of much debate, it will very likely continue to evolve to reflect that of the precedent-setting rulings that have occurred over the years. As more and more precedent is continually set, the future will very likely see some subtle changes in the nature of the law itself. As long as these subtle changes continue to occur, it is only a matter of time before the evolution of the law becomes a matter of public debate and curiosity among physicians and attorneys alike, as well as those plaintiffs who are involved in the definition of medical malpractice law and Washington itself. With so much debate, it is almost impossible to predict the outcome in any particular debate. This difficulty in understanding the raging debate involving medical malpractice law in Washington will very likely end with individuals and plaintiffs seeking legal counsel for their curiosities and questions involving medical malpractice law in Washington.

Understanding the Rights of the Victim

As a patient, the medical malpractice law in Washington provides for those who are worse off after seeking treatment than they were before to hold their physicians accountable. Consequently, Washington requires a set of standards for medical malpractice insurance on the part of the physicians themselves. Without this insurance, the physicians cannot legally operate in the state, as they require protections from the individual plaintiffs to continue to operate.

Medical malpractice law in West Virginia is very clearly defined in the state's constitution and the statutes that are set down as a result of the framing of the Constitution. As more and more individuals over the years sue through the offices of their practicing attorneys and attempt to make the case that their physician has been negligent, it becomes clear that certain precedent has been followed and that the law has changed ever so slightly over the years to reflect these types of precedent-setting cases. With this extremely subtle evolution of law, it is only natural to assume that the attorneys and physicians must constantly brush up on legal rulings in order to keep themselves abreast of the situation. As more and more precedent begins to make it extraordinarily difficult for physicians and attorneys alike to keep up with the evolution of law, it is only natural for individuals to continue seeking out new methods of litigation and loopholes in which to couch their medical malpractice complaints.

West Virginia State Malpractice Laws at a Glance:

	West Virginia State Tort Law
Statute of Limitations	2 years from injury or reasonable period for discovery. After ten years from the original injury, a suit may not be brought.
Damage Award Limits	\$250,000 base limit for noneconomic damages, \$500,000 base limit for compensatory damages, to be adjusted according to inflation index. In order to qualify for limits, physicians must carry a minimum of \$1 million malpractice insurance.
Joint Defendant Liability	Proportionate liability for defendants.
Expert Witness	The expert witness must have up-to-date training and/or experience equal or similar to the defendant. In addition, the witness must devote a minimum of 60% of professional time to teaching at accredited university or clinical practice.
Attorney Fees	No limits on attorneys fees

Defining Medical Malpractice Law in West Virginia

In the attempt to accurately define medical malpractice law in West Virginia, there is all manner of precedent and legal rulings that have to be taken into account. With so many different types of laws and individual cases that have been litigated over the years, there are all manner of precedents that have been set and have changed the very meaning of the law that was originally framed by the state's founding lawmakers. With these types of changes, it is clear that individuals have relied on attorneys over the years to argue their case in front of the court and that they have been generally successful in many different types of situations. As long as attorneys continue to

sue physicians and physicians continue to hire attorneys to protect themselves, it is clear that the law will continue to be all and precedent will continue to be set as these types of legal battles continue to rage on and take up the time of the court.

Understanding the Rights of the Plaintiffs

In the state of West Virginia, malpractice law is defined as those who seek out the assistance of their physician and are worse off for the effort. If you're physician attempts to treat you and his attempts are met with failure to the extent that you are worse off afterwards than you were before you sought out attention from your physician, this is the very definition of malpractice. Although anyone can file a malpractice suit, it is recommended that you seek out the offices of a competent attorney.

Medical malpractice law in **Wisconsin** is not unique in the country, as it is very similar to many other states that carry basic medical malpractice laws. Although it differs substantially when it comes to the evolution of the law itself in comparison with these other states. Over the many years of Wisconsin's existence, the medical malpractice laws have been argued and debated repeatedly until the point that the current and modern day representation of medical malpractice law in Wisconsin hardly resembles that of the original framing of the statutes themselves. With so many efforts made by attorneys to argue the point and change the nature of litigation in the courtroom, it is only natural that these precedent-setting cases would make some inroads into the nature of the law itself. With this evolution of law, it is not surprising that the state itself has allowed this method of taking into account previous precedent to have a bearing on the medical malpractice law in Wisconsin. As long as attorneys and physicians continue to litigate, it is necessary to take into account the decisions that are made on a daily basis by the court, for better or ill.

Wisconsin State Malpractice Laws at a Glance:

	Wisconsin State Tort Law
Statute of Limitations	The limit is three years from original injury or one year from discovery, but not more than five years after the act. In the cases of foreign objects, the limit is one year from discovery or three years after the act, whichever is later.
Damage Award Limits	\$350,000 limit for damages. In cases resulting in death, \$500,000 maximum award for death of a minor, and \$350,000 maximum award for death of an adult.
Joint Defendant Liability	Proportionate liability for defendants, except in cases where defendants are found to be more than 50% at fault or deliberately acting jointly with others.
Expert Witness	No stipulations for witnesses
Attorney Fees	Fees based on sliding scale. Maximum fees not to exceed 1/3 of first \$1 million awarded, or 1/4 of first \$1 million awarded if liability is stipulated within time limits, 1/5 of any amount in excess of \$1 million.

Defining Medical Malpractice Law in Wisconsin

Medical malpractice law in Wisconsin is defined by the state's lawmakers and is considered to be set in stone. Despite this, it has already been established that the constant litigation has certainly changed the very nature of the law, no matter how slightly, over the years to reflect the precedent that has been set by physicians and attorneys in their constant struggle. With so many doubts and questions involved, it is not surprising that the precedent-setting cases have been the subject of

multiple inquiries into the evolution of the law itself. Until a more concrete definition arises, it is advised that the letter of the law be followed and that certain precedent be alluded to, rather than followed as concrete. With the framework of the state constitution and the intentions of the lawmakers quite clear, it is only natural to assume that the original definition still applies, in so far as additional precedent is not referenced.

Protecting the Plaintiff

The medical malpractice law in Wisconsin provides for the protection of the plaintiff to the point that they are considered to be a victim if they are worse off after visiting their doctor than they were before. This covers all manner of injuries and illnesses, as well as well-intentioned medications provided by the physician themselves.

With so much obscurity surrounding medical malpractice law in Wyoming, is not surprising that so many attorneys and so many doctors spend so much time arguing the case in front of a court of law. With all of this litigation and battling to be victorious in the eyes of the court, it is only natural that the law would evolve over the years. With this particular type of evolution comes a difficulty in understanding the exact letter of the law. While it is true that medical malpractice law in Wyoming is set down in the statutes, it is also true that much constant litigation has changed the meaning of the letter of the law and caused all manner of difficulty in the matter of correct interpretation of the law in the modern day. Considering the amount of attorneys arguing the case on a regular basis, it is not surprising that so much effort is put into reinterpreting the law in a way that benefits the patient more so than the doctor. As a continuing flood of individuals proceed to file suit against physicians, the evolution of medical malpractice law in Wyoming will continue its natural slide into becoming an instrument for the prosecution of physicians on a regular basis.

Wyoming State Malpractice Laws at a Glance:

	Wyoming State Tort Law
Statute of Limitations	Two years from date of original injury or after injury was discovered.
Damage Award Limits	No limit.
Joint Defendant Liability	Proportionate liability for defendants
Expert Witness	No stipulation for witnesses
Attorney Fees	Dependent upon value of award. For \$1 million or less: 1/3 if claim settled prior to 60 days after filing; 40% if settled after 60 days or judgment. For awards over \$1 million, a flat 30%.

Defining Medical Malpractice Law in Wyoming

The definition of medical malpractice law in Oregon is somewhat basic and, when taken directly from the law books, is easy to understand. Of course, once that law is built into actual practice, it is a completely different matter and subject to the court's rulings. With so many different lawyers, doctors and plaintiffs all working over the same statute, it is only natural for the exact nature of medical malpractice law to fluctuate. As more and more precedent is set every day for different types of medical malpractice law, the absolute meaning of medical malpractice law is never set in stone. Considering how many patients are the victim of medical malpractice and how

many doctors are called to court to defend themselves from medical malpractice law, it is not hard to understand how the issue could be misunderstood.

Constant Evolution of Medical Malpractice Law in Wyoming

With this constant changing of the law, it can be difficult to ascertain exactly what the rights of the victims are at any given moment. Fortunately, the clarifying of certain specific points is left to the courts, who do their duty remarkably well and consider the definition of medical malpractice to be within the realm of understanding. By clearly defining the law, new precedent can be set dealing with medical malpractice law and those who are subjected to its rulings and vagaries on a regular basis.