

LAW OFFICE OF SHARON A. CHRISTIE, P.A.

Your Social Security Disability Law Firm

Do I Have a Case?

By Sharon A. Christie, Esq.

As you know, I handle both Social Security disability and injury/malpractice cases. In car accident cases, it is usually fairly easy to determine who was at fault and whether or not you have a case. That is not true, however, in malpractice cases.

Medical malpractice and nursing home malpractice cases have their own set of legal requirements. Just have a bad result from treatment does not mean that you have a valid malpractice case.

The first thing you must prove is that the health care provider (doctor, nurse, hospital, etc.) breached the applicable standard of care. What does that mean? It means that the health care provider did something that no reasonable health care provider would have done in treating a patient like you.

OK—so how do you prove that? In MD, you must have expert testimony. The expert will review the medical records to determine if there was a breach in the standard of care. But that is only the first step.

If an expert determines that there was a breach in the standard of care, then you must prove the damages that resulted from the breach. But it is not that simple. In MD you must prove the damages that are related to the malpractice that would not have likely otherwise occurred. For example, if you have surgery and get an infection, you might think you have a case. But, even if you could prove that the surgeon breached the standard of care in performing the surgery, you probably don't have a case. Why? Well, you would also have to prove that the infection resulted from the negligence of the surgeon and that the infection would not have otherwise occurred. An infection, however, is a known complication of all surgeries, even if they are performed perfectly. This is because anytime you cut the skin for any reason, you can get an infection. So, you will probably not be able to prove that the infection would not otherwise have occurred. As you can see, the assessment of these cases is a lot more complicated than most people realize.

If you think that you might have a case, you'll want a lawyer who is well versed in malpractice cases to look at it as soon as possible. There are time limits that apply when filing these claims. Under current MD law, a claim for malpractice must be filed within 3 years of the time when you knew or should have known of your injury or 5 years from the date of treatment, whichever comes first. It takes 6 months or longer to investigate these cases.

For more information about Social Security disability claims and to order a FREE copy of my book, *Unofficial Guide to Social Security Disability Claims*, visit my website:

www.SharonChristieLaw.com