Who Is Liable for Medical Malpractice?

Virtually any professional involved in your medical care can be liable for damages you sustain as a result of malpractice.

This may include:

- Doctors
- Nurses
- Medical assistants
- Surgeons
- OB/GYNs
- Pharmacists
- Dentists
- Psychiatrists
- Medical specialists
- Administrators of hospitals and other facilities
A Measure of Malpractice-Henry J Friendly Professor of Law Paul C Weiler 1993 A Measure of Malpractice tells the story and presents the results of the Harvard Medical Practice Study, the largest and most comprehensive investigation ever undertaken of the performance of the medical malpractice system. The Harvard study was commissioned by the government of New York in 1986, in the midst of a malpractice crisis that had driven insurance premiums for surgeons and obstetricians in New York City to nearly $200,000 a year. The Harvard-based team of doctors, lawyers, economists, and statisticians set out to investigate what was actually happening to patients in hospitals and to doctors in courtrooms, launching a far more informed debate about the future of medical liability in the 1990s. Careful analysis of the medical records of 30,000 patients hospitalized in 1984 showed that approximately one in twenty-five patients suffered a disabling medical injury, one quarter of these as a result of the negligence of a doctor or other provider. After assembling all the malpractice claims filed in New York State since 1975, the authors found that just one in eight patients who had been victims of negligence actually filed a malpractice claim, and more than two-thirds of these claims were filed by the wrong patients. The study team then interviewed injured patients in the sample to discover the actual financial loss they had experienced: the key finding was that for roughly the same dollar amount now being spent on a tort system that compensates only a handful of victims, it would be
possible to fund comprehensive disability insurance for all patients significantly disabled by a medical accident. The authors, who came to the project from very different perspectives about the present malpractice system, are now in agreement about the value of a new model of medical liability. Rather than merely tinker with the current system which fixes primary legal responsibility on individual doctors who can be proved medically negligent, legislatures should encourage health care organizations to take responsibility for the financial losses of all patients injured in their care.

**Patients, Doctors, and Lawyers**-Harvard Medical Practice Study 1990

**Medical Malpractice**-Patricia Munch Danzon 1985 How often are patients seriously injured through faulty medical care? And what proportion of these people receive compensation for their injuries and suffering? This is the first book that tries to answer these questions in a careful, scholarly way. Among its important findings is that at most one in ten patients injured through medical negligence receives compensation through the malpractice system. The focus of public attention has been on the rising cost to physicians of malpractice insurance. Although Patricia Danzon analyzes this question thoroughly, her view is much broader, encompassing the malpractice system itself--the legal process, the liability insurance markets, and the feedback to health care. As an economist, she is concerned with the efficiency or cost-effectiveness of the system from the point of view of its three social purposes: deterrence of medical negligence, compensation of injured patients, and the spreading of risk. To provide evidence of the operation of the system in practice, to distinguish fact from allegation, and to evaluate proposals for reform, she has undertaken a detailed empirical analysis of malpractice claims and insurance markets. It is a major contribution to our understanding of how the system works in practice and how it might be improved.
Defensive Medicine and Medical Malpractice - United States. Congress. Office of Technology Assessment 1994

The Medical Malpractice Myth - Tom Baker 2007-08 Baker argues that the conventional wisdom about the medical malpractice crisis is a myth, and “the real problem is too much medical malpractice, not too much litigation.” He contends that research shows that amounts paid for auto liability, workers' compensation, and product liability insurance dwarf the amounts paid for medical malpractice insurance, which represent less than 1 percent of health care costs. Only 3 percent of medical malpractice victims pursue lawsuits. Baker calls for evidence-based legislative reform which would include a medical injury disclosure and enforcement process; an apology and early-offer procedure; a supplemental no-fault patient-compensation insurance program; and a new insurance requirement to address the excessive insurance premiums of high-risk specialists.

The Economics of Medical Malpractice - Simon Rottenberg 1978

Medical Malpractice - Frank Mcclellan 2010-06-10 From practical to philosophical considerations, this succinct, clear presentation of medical malpractice issues is a valuable resource for the classroom and the reference shelf. Frank M. McClellan illustrates the multitude of considerations that impact the merit of each case, never losing sight of the importance of preserving human dignity in malpractice lawsuits. Early chapters urge the evaluation of legal, medical, and ethical standards, especially the Standard of Care. Part II focuses on assessing and proving compensatory and punitive damages, Part III sets out guidelines for intelligence...
gathering, medical research, choosing expert witnesses, and preparing for trial. Students of law, medicine, and public health, as well as lawyers and health care professionals, will find in Medical Malpractice a valuable text or reference book. "Problems" in twelve of the thirteen chapters illustrate the range of issues that can arise in malpractice suits. An appendix lists leading cases that have shaped medical malpractice law.

**Medical Practice and Malpractice** - Harvey Teff 2001 This book contains:

- David T. Ozar (1994) Malpractice and the Presuppositions of Medical Practice;
- Daniel P. Sulmasy (1993) What's so Special about Medicine?;
- Standard of Care - Theodore Silver (1992);
- One Hundred Years of Harmful Error - The Historical Jurisprudence of Medical Malpractice;
- Jonathan Montgomery (1989) Medicine, Accountability and Professionalism;
- P.S. Atiyah (1986) Medical Malpractice and the Contract/Tort Boundary;
- Peter H. Schuck (1994) Rethinking Informed Consent;
- The Interaction of Technology, Law and Culture. Medical Injury, Litigation and Compensation - Troyen A.

**Impact of Legal Reforms on Medical Malpractice Costs** - United States. Office of Technology Assessment 1993

**Big Data, Health Law, and Bioethics** - I. Glenn Cohen 2018-03-08 When data from all aspects of our lives can be relevant to our health - from our habits at the grocery store and our Google searches to our FitBit data and our medical records - can we really differentiate between big data and health big data? Will health big data be used for good, such as to improve drug safety, or ill, as in insurance discrimination? Will it disrupt health care (and the health care system) as we know it? Will it be possible to protect our health privacy? What barriers will there be to collecting and utilizing health big data? What role should law play, and what ethical concerns may arise? This timely, groundbreaking volume explores these questions and more from a variety of perspectives,
examining how law promotes or discourages the use of big data in the health care sphere, and also what we can learn from other sectors.

**Medical Malpractice**-Frank A. Sloan 2008 Most experts would agree that the current medical malpractice system in the United States does not work effectively either to compensate victims fairly or prevent injuries caused by medical errors. Policy responses to a series of medical malpractice crises have not resulted in effective reform and have not altered the fundamental incentives of the stakeholders. In Medical Malpractice, economist Frank Sloan and lawyer Lindsey Chepke examine the U.S. medical malpractice process from legal, medical, economic, and insurance perspectives, analyze past efforts at reform, and offer realistic, achievable policy recommendations. They review the considerable empirical evidence in a balanced fashion and assess objectively what works in the current system and what does not. Sloan and Chepke argue that the complexity of medical malpractice stems largely from the interaction of the four discrete markets that determine outcomes--legal, medical malpractice insurance, medical care, and government activity. After describing what the evidence shows about the functioning of medical malpractice, types of defensive medicine, and the effects of past reforms, they examine such topics as scheduling damages as an alternative to flat caps, jury behavior, health courts, incentives to prevent medical errors, insurance regulation, reinsurance, no-fault insurance, and suggestions for future reforms. Medical Malpractice is the most comprehensive treatment of malpractice available, integrating findings from several different areas of research and describing them accessibly in nontechnical language. It will be an essential reference for anyone interested in medical malpractice. Frank A. Sloan is J. Alexander McMahon Professor of Health Policy and Management and Professor of Economics at Duke University. He is the coauthor of The Price of Smoking (MIT Press, 2004) and author or editor of many other books on health economics. Lindsey M. Chepke, an attorney, is a Research Associate at the Center for Health Policy at Duke University.
Medical Malpractice in Nineteenth-century America - Kenneth De Ville 1992-04-01

Medical Malpractice Litigation - Bernard S. Black 2021-04-27

"Drawing on an unusually rich trove of data, the authors have refuted more politically convenient myths in one book than most academics do in a lifetime."
— Nicholas Bagley, professor of law, University of Michigan Law School

"Synthesizing decades of their own and others’ research on medical liability, the authors unravel what we know and don’t know about our medical malpractice system, why neither patients nor doctors are being rightly served, and what economics can teach us about the path forward."
— Anupam B. Jena, Harvard Medical School

Over the past 50 years, the United States experienced three major medical malpractice crises, each marked by dramatic increases in the cost of malpractice liability insurance. These crises fostered a vigorous politicized debate about the causes of the premium spikes, and the impact on access to care and defensive medicine. State legislatures responded to the premium spikes by enacting damages caps on non-economic, punitive, or total damages and Congress has periodically debated the merits of a federal cap on damages. However, the intense political debate has been marked by a shortage of evidence, as well as misstatements and overclaiming. The public is confused about answers to some basic questions. What caused the premium spikes? What effect did tort reform actually have? Did tort reform reduce frivolous litigation? Did tort reform actually improve access to health care or reduce defensive medicine? Both sides in the debate have strong opinions about these matters, but their positions are mostly talking points or are based on anecdotes. Medical Malpractice Litigation provides factual answers to these and other questions about the performance of the med mal system. The authors, all experts in the field and from across the political spectrum, provide an accessible, fact-based response to the questions ordinary Americans and policymakers have about the performance of the med mal litigation system.
Capping Non-economic Awards in Medical Malpractice Trials—Nicholas Michael Pace 2004 A model for limits on trial awards and attorneys' fees in medical malpractice cases is the Medical Injury Compensation Reform Act (MICRA), a law enacted in California in 1975 in the hope of controlling soaring medical malpractice insurance premiums and ensuring the continuing availability of malpractice insurance. MICRA caps awards for non-economic losses at $250,000 and limits plaintiffs' attorney fees. The authors examine the effects these limits have on both plaintiffs' awards and defendants' liabilities.

Litigating Medical Malpractice Claims—2002

Legal Aspects of Medicine—James R. Vevaina 2012-12-06 The simple reason for creating this book was my impression that the law is having an increasing impact on the practice of medicine. There is hardly a physician I know who has not been deeply troubled by legal problems professionally, economically, and most important of all, psychologically. The past decade has seen medical practice premiums steadily rising. Multimillion dollar verdicts have not been unusual. Having disregarded these vital issues for many years, physicians have suddenly become very aware of litigation-related problems. Having been interested for a long time in the logic of the law and the romance of legal research, I thought it would be useful to create a book that would result in the blending of great minds in law and medicine. It has been my long standing observation and belief that the approach of professors of medicine, and that of learned members of the bar and bench, when put together, produce unique results. Putting these views together has been the real challenge in editing this book.

Medical Malpractice—United States. General Accounting Office 1993
Measure Of Malpractice: Medical Injury, Malpractice Litigation, And Patient Compensation
Medical Malpractice and the American Jury—Neil Vidmar 1997-07-15 Returns the verdict on the performance of medical malpractice juries

Avoiding Medical Malpractice—William Choctaw 2008-03-26 Written by an MD/JD, this book offers a unique perspective on medical-legal issues surrounding daily clinical practice. It covers all the essentials and tells the inside secrets of how to avoid cases that cost the medical community millions each year. Readers will learn basic law and the ways laws are interpreted. In addition, the book focuses on the law-medicine-politics triangle and its effect on physicians, the impact of — and issues related to — diversity in medical malpractice, and other essential topics. Physicians who better understand malpractice laws are better clinical decision makers who feel more confident in their ability as doctors.

Medical Malpractice on Trial—Paul C. Weiler 1991 Examines the medical malpractice crisis, suggests shifting insurance responsibility from doctors to hospitals, and proposes a no-fault liability system

American Judicial Politics—Harry P. Stumpf 1998 KEY BENEFIT: This book on the American judicial system encourages readers to seriously consider the way we think about law, politics, and society. Providing the most extensive study of jurisprudence available, it offers important perspectives for understanding how and why law works the way it does in the American political context; succinctly presents the main currents of contemporary legal thought for an in-depth study of American law and courts; endeavors to cover each and every significant subject, issue, and research area common to the subfield of law and courts in contemporary American political science; and contains exceptionally through documentation throughout. It describes and analyzes key
elements of the judicial process, including the selection of judges at both the state and federal levels; the history and structure of the American judicial system; the trial process in both civil and criminal courts, the implementation of judicial decisions; and the role of the judiciary in American politics and society. It also adds material on feminist jurisprudence, racial theory, and the "new constitutive" view of law, and includes the latest findings and figures on caseflow in the U.S. Supreme Court, law school enrollments, crime statistics, and more. For political scientists, lawyers, and those interested in the American government and constitutional law.

Health Affairs- 2004

Annals of health law- 2002

Compartment Syndrome- Cyril Mauffrey 2019-01-01 Compartment syndrome is a complex physiologic process with significant potential harm, and though an important clinical problem, the basic science and research surrounding this entity remains poorly understood. This unique open access book fills the gap in the knowledge of compartment syndrome, re-evaluating the current state of the art on this condition. The current clinical diagnostic criteria are presented, as well as the multiple dilemmas facing the surgeon. Pathophysiology, ischemic thresholds and pressure management techniques and limitations are discussed in detail. The main surgical management strategy, fasciotomy, is then described for both the upper and lower extremities, along with wound care. Compartment syndrome due to patient positioning, in children and polytrauma patients, and unusual presentations are likewise covered. Novel diagnosis and prevention
strategies, as well as common misconceptions and legal ramifications stemming from compartment syndrome, round out the presentation. Unique and timely, Compartment Syndrome: A Guide to Diagnosis and Management will be indispensable for orthopedic and trauma surgeons confronted with this common yet challenging medical condition.

Medical Malpractice-Richard E. Anderson 2007-11-05 Books such as this one are deceptively difficult to create. The general subject is neither happy, nor easy, nor most anyone’s idea of fun. Medical practice litigation, however, has become a central fact of existence in the practice of medicine today. This tsunami of lawsuits has led to a high volume of irreconcilable rhetoric and ultimately threatens the stability of the entire health care system. Our goal has been to provide a source of reliable information on a subject of importance to all who provide medical care in the United States. The book is divided into four sections. Part I gives an overview of insurance in general and discusses the organization of professional liability insurance companies in particular. Part II focuses on the litigation process itself with views from the defense and plaintiff bar, and the physician as both expert and defendant. Part III looks at malpractice litigation from the viewpoint of the practicing physician. Some of the chapters are broadly relevant to all doctors—the rise of e-medicine, and the importance of effective communication, for example. The other chapters are constructed around individual medical specialties, but discuss issues that are of potential interest to all. Part IV looks ahead. “The Case for Legal Reform” presents changes in medical-legal jurisprudence that can be of immediate benefit. The final two chapters take a broader perspective on aspects of our entire health care system and its interface with law and public policy.

Disposition of Medical Malpractice Claims-Chee-Ruey Hsieh 1990
Improving Diagnosis in Health Care-National Academies of Sciences, Engineering, and Medicine
2016-01-29 Getting the right diagnosis is a key aspect of health care - it provides an explanation of a patient's health problem and informs subsequent health care decisions. The diagnostic process is a complex, collaborative activity that involves clinical reasoning and information gathering to determine a patient's health problem. According to Improving Diagnosis in Health Care, diagnostic errors-inaccurate or delayed diagnoses-persist throughout all settings of care and continue to harm an unacceptable number of patients. It is likely that most people will experience at least one diagnostic error in their lifetime, sometimes with devastating consequences. Diagnostic errors may cause harm to patients by preventing or delaying appropriate treatment, providing unnecessary or harmful treatment, or resulting in psychological or financial repercussions. The committee concluded that improving the diagnostic process is not only possible, but also represents a moral, professional, and public health imperative. Improving Diagnosis in Health Care a continuation of the landmark Institute of Medicine reports To Err Is Human (2000) and Crossing the Quality Chasm (2001) finds that diagnosis-and, in particular, the occurrence of diagnostic errors-has been largely unappreciated in efforts to improve the quality and safety of health care. Without a dedicated focus on improving diagnosis, diagnostic errors will likely worsen as the delivery of health care and the diagnostic process continue to increase in complexity. Just as the diagnostic process is a collaborative activity, improving diagnosis will require collaboration and a widespread commitment to change among health care professionals, health care organizations, patients and their families, researchers, and policy makers. The recommendations of Improving Diagnosis in Health Care contribute to the growing momentum for change in this crucial area of health care quality and safety.
Communities in Action-National Academies of Sciences, Engineering, and Medicine 2017-04-27 In the United States, some populations suffer from far greater disparities in health than others. Those disparities are caused not only by fundamental differences in health status across segments of the population, but also because of inequities in factors that impact health status, so-called determinants of health. Only part of an individual's health status depends on his or her behavior and choice; community-wide problems like poverty, unemployment, poor education, inadequate housing, poor public transportation, interpersonal violence, and decaying neighborhoods also contribute to health inequities, as well as the historic and ongoing interplay of structures, policies, and norms that shape lives. When these factors are not optimal in a community, it does not mean they are intractable: such inequities can be mitigated by social policies that can shape health in powerful ways. Communities in Action: Pathways to Health Equity seeks to delineate the causes of and the solutions to health inequities in the United States. This report focuses on what communities can do to promote health equity, what actions are needed by the many and varied stakeholders that are part of communities or support them, as well as the root causes and structural barriers that need to be overcome.

Malpractice and Medical Liability-Santo Davide Ferrara 2013-04-11 Medical responsibility lawsuits have become a fact of life in every physician’s medical practice. However, there is evidence that physicians are increasingly practising defensive medicine, ordering more tests than may be necessary and avoiding patients with complicated conditions. The modern practice of medicine is increasingly complicated by factors beyond the traditional realm of patient care, including novel technologies, loss of physician autonomy, and economic pressures. A continuing and significant issue affecting physicians and the healthcare system is malpractice. In the latter half of the 20th century, there was a major change in the attitude of the public towards the medical profession. People were made aware of the huge advances in medical technology, because health problems increasingly tended to attract media interest and wide publicity. Medicine is a victim of its own success in this...
respect, and people are now led to expect the latest techniques and perfect outcomes on all occasions. This 
burst of technology and hyper-specialization in many fields of medicine means that each malpractice claim is 
transformed into a scientific challenge, requiring specific preparation in analysis and judgment of the clinical 
case in question. The role of legal medicine becomes more and more peculiar in this judicial setting, often 
giving rise to erroneous interpretations and hasty scientific verdicts, but guidelines on the methodology of 
ascertainties and criteria of evaluation are lacking all over the world. The aim of this volume is to clarify the 
steps required for sequential in-depth analysis of events and consequences of medical actions, in order to 
verify whether, in the presence of damage, errors or non-observance of rules of conduct by health personnel 
exist, and which causal values and links of their hypothetical misconduct are involved.

The Law of Torts - Fowler Vincent Harper 1986

Proving and Defending Damage Claims - James Joseph Brown 2007-01-01 Today, the standards for 
assessing the different types of damages vary greatly from state to state. Tort reform nationally has had a 
significant impact on tort damages. In addition, many states have codified the law concerning claims for 
damages arising from medical malpractice, consumer rights, wrongful death, and products liability. Proving 
and Defending Damage Claims: A Fifty-State Guide is the one reference that will help you accurately assess 
and pursue damages— from drafting or defending a complaint to arguing damages at trial. This unique 
resource will help you present the strongest possible case on behalf of your client. You'll gain instant access 
to: Fifty-state surveys that provide quick and reliable answers to questions about recoverable damages. 
Analysis to help you calculate recoverable damages for particular causes of action. Reliable insights into the 
framework of punitive damages, including their availability and limitations. And much more! ; Proving and
Defending Damage Claims: A Fifty-State Guide enables you to quickly and accurately assess damages in all fifty states. This essential resource analyzes damages connected with specific causes of action, including: Medical Malpractice Products Liability Personal injury Wrongful Death Equitable Remedies Property Loss Environmental Torts Consumer Protection

Reports on Managed Care - American Medical Association. Council on Ethical and Judicial Affairs 1998 Ethics in the era of managed care. This collection of AMA Council Reports from 1990 to 1997 examine a variety of ethical issues concerning managed care. Report topics include financial incentives to limit care, cost containment involving prescription drugs, restrictions on disclosure in managed care contracts, ethical issues in negotiating discounts for specialty care, capitation, and more. An analysis of current issues in medical ethics is also included.

Health Law 2003 - Barry R. Furrow 2003-05

Forensic Pathology Reviews - Michael Tsokos 2007-10-28 Cutting-edge accounts of special topics from various fields of forensic pathology and death scene investigation. The authors explore new avenues for analyzing the pathology of death from starvation (child neglect), head injuries inflicted by glass bottles, the clinical and pathological features of primary cerebral neoplasms, obesity as it is relevant to the forensic pathologist, and infant and early childhood asphyxial death. Other areas of interest covered include suicide, viral myocarditis in sudden death cases, curious death scene phenomena (hiding, covering and undressing), forensic entomology, the interpretation of toxicological findings, anabolic-androgenic-steroid abuse, and...
autopsy findings of subendocardial hemorrhages.

**Do Doctors Practice Defensive Medicine?**-Daniel P. Kessler 1996 'Defensive medicine' is a potentially serious social problem: if fear of liability drives health care providers to administer treatments that do not have worthwhile medical benefits, then the current liability system may generate inefficiencies many times greater than the costs of compensating malpractice claimants. To obtain direct empirical evidence on this question, we analyze the effects of malpractice liability reforms using data on all elderly Medicare beneficiaries treated for serious heart disease in 1984, 1987, and 1990. We find that malpractice reforms that directly reduce provider liability pressure lead to reductions of 5 to 9 percent in medical expenditures without substantial effects on mortality or medical complications. We conclude that liability reforms can reduce defensive medical practices.

**Closing Death's Door**-Michael J. Saks 2021-01-04 After heart disease and cancer, the third leading cause of death in the United States is iatrogenic injury (avoidable injury or infection caused by a healer). Research suggests that avoidable errors claim several hundred thousand lives every year. The principal economic counterforce to such errors, malpractice litigation, has never been a particularly effective deterrent for a host of reasons, with fewer than 3% of negligently injured patients (or their families) receiving any compensation from a doctor or hospital's insurer. Closing Death's Door brings the psychology of decision making together with the law to explore ways to improve patient safety and reduce iatrogenic injury, when neither the healthcare industry itself nor the legal system has made a substantial dent in the problem. Beginning with an unflinching introduction to the problem of patient safety, the authors go on to define iatrogenic injury and its scope, shedding light on the culture and structure of a healthcare industry that has failed to effectively
address the problem-and indeed that has influenced legislation to weaken existing legal protections and impede the adoption of potentially promising reforms. Examining the weak points in existing systems with an eye to using law to more effectively bring about improvement, the authors conclude by offering a set of ideas intended to start a conversation that will lead to new legal policies that lower the risk of harm to patients. Closing Death's Door is brought to vivid life by the stories of individuals and groups that have played leading roles in the nation's struggle with iatrogenic injury, and is essential reading for medical and legal professionals, as well as lawmakers and laypeople with an interest in healthcare policy.

The Effects of Tort Reforms on the Frequency and Severity of Medical Malpractice Claims - Patricia Munch Danzon 1986

Arizona Journal of International and Comparative Law - 2005

Penn State Law Review - 2004

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