SHULMAN
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Dental Medical Malpractice

Dental malpractice, much like medical malpractice, is negligence by a dental healthcare provider such as a general dentist, oral surgeon, orthodontist, periodontist, prosthodontist, endodontist or dental hygienist. A subspecialty of medical malpractice, dental malpractice typically involves some sort of injury to a person's mouth, dentition, jaw and or head as a result of negligence in dental care. These cases are complex and often involve the integration of law, medicine and science.

A dental healthcare provider is not negligent simply because the desired result was not achieved or the procedure resulted in some injury. In a dental malpractice claim it must be shown that the dental healthcare provider fell below what we call "the standard of care," failing to act as a reasonable and prudent dental healthcare provider would under the circumstances. This can only be proven in court through the testimony of dental or medical experts – other providers who perform the same or similar procedures.

In a dental malpractice action the victim can seek compensation not only for the dental and medical expenses incurred, both past and future, but also for pain and suffering caused by the injury. This is especially relevant in the case of injuries for which there is little to no likelihood of full recovery. Such an injury may involve damage to nerves innervating the mouth (the lingual nerve provides sensation to the tongue and part of the gumline and the inferior alveolar nerve provides sensation to the lip, chin and cheeks). Such injury can also include untreated infection, unnecessary damage to or loss of teeth, orthodontic issues and jaw pain or mobility issues.

In a situation involving potential dental malpractice the victim, by law, has a limited amount of time in which to file a complaint. In Virginia this time is two (2) years from either the date of the incident or from the last date of treatment with the target dental healthcare provider. In Washington, DC it is three (3) years from the date of the injury. In Maryland, a complaint for dental malpractice must be filed within either five (5) years from the time of the injury or three (3) years of the date the injury was discovered.