**Effect of Comparative Negligence on a Medical Malpractice Claim in Illinois**

Medical malpractice claims are influenced by numerous factors, and are difficult to prove, even though it may seem like an open and shut case to the plaintiff. Generally, when a patient files a claim, it is to recover damages caused due to the negligence or malpractice on part of the doctor, staff, or hospital. However, in order to defend themselves, doctors or hospitals try to pin the blame onto the patient by establishing that they have been negligent with the prescribed treatment that worsened their condition or hampered their recovery.

Similar to personal injury cases, the legal concept of comparative negligence applies where the court evaluates how much the plaintiff contributed to the injury or situation. It is important to understand how comparative negligence can affect your case and the amount of compensation you could otherwise have received.

**Understanding Comparative Negligence in a Medical Malpractice Claim**

Comparative negligence refers to any defense that a defendant may use to make the plaintiff liable for the assertions to a certain degree in a tort claim. In other words, the defendant may bring facts into light to show the court that the plaintiff played a part, exacerbated, contributed to, or caused the damages or some of the damages for which the plaintiff is making a claim.

Here is an example to help you understand. Imagine that you were injured in an auto accident and were taken to the ER to get treatment. The doctor examined you and recommended that you get admitted for a day or two to further evaluate your condition. You got yourself admitted, and two days later, got discharged. The doctor prescribed a few medicines and a follow-up, but you felt better and didn’t think you should complete the medication course and go for a follow-up. After a few weeks, your injury worsened and you filed a claim against the doctor for medical malpractice. In such a situation, you are partly at fault, and comparative negligence will be applied to your case to determine the extent of the defendant’s liability.

**What is meant by Modified Comparative Negligence?**

In Illinois, the [modified comparative negligence](http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=073500050HArt%2E+II+Pt%2E+11&ActID=2017&ChapAct=735%26nbsp%3BILCS%26nbsp%3B5%2F&ChapterID=56&ChapterName=CIVIL+PROCEDURE&SectionID=61924&SeqStart=12400000&SeqEnd=14900000&ActName=Code+of+Civil+Procedur) rule is followed in tort claims, such as medical malpractice. When you file a medical malpractice claim, you will not be awarded any compensation if you are over 50 percent at fault for the injury or condition. If the fault is under 50 percent, you will be awarded compensation, but the amount will decrease as the percentage increases. This means that when you are at 5 percent fault, you will get higher amount of compensation for your damages than at 40 percent.

Whether the doctor is partly or completely at fault for your injuries, it is essential that you retain competent legal counsel from a reliable [medical malpractice attorney](https://www.robertedenslawoffice.com/medical-malpractice-lawyer/) to better understand your case and plan your way forward. This is because if you are more responsible for your injuries than the doctor, you will lose the case, while incurring costs of the legal procedure. [Contact](http://www.robertedenslawoffice.com/contact/) us at (847) 395-2200 or online today to schedule your initial consultation.