

THE WARREN REPORT

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MEDICAL MALPRACTICE

Many medical procedures have risks, but health professionals are required to take caution and act in the best interest of the patient.

When healthcare professionals make errors, it can cause serious harm to their patients. Fortunately, there are laws in place to protect individuals from these mistakes. To pursue a malpractice claim, plaintiffs must demonstrate liability.

Under Virginia Code, establishing negligence involves proving the medical provider committed an error that was a breach of the standard of care. Further, patients must show the direct connection between the breach and their damages. Healthcare workers who could be held liable for malpractice may include:

- Primary care providers
- Dentists
- Psychologists
- Physical therapists
- Chiropractors
- Anesthesiologists
- Pharmacists

Uncovering the details of the medical treatment or procedure in question is crucial to the success of the case. Patients should gather all relevant information and present it to the court. Important evidence may include medical records, doctor's notes, or witness testimony.

Law firms often have the resources to conduct such investigations. An attorney may also be able to interview potential witnesses or seek out medical experts to testify to the patient's injuries. While preparing for trial, lawyers could attempt to reach a settlement with the insurance company representing the healthcare provider. If both parties are unable to come to an agreement, legal counsel could present a patient's case to the court.

The state allows medical malpractice victims to seek compensation for the losses they have suffered. Economic damages account for medical bills and other measurable expenses, while intangible losses may include inconvenience. Plaintiffs may also be awarded punitive damages. This type of compensation is designed to punish the offender for particularly heinous behavior. A punitive damages award may not exceed \$350,000. Patients must file a claim within two years of the negligent act that caused their damages.



\$1,750,000 Nursing Home Medical Malpractice Case

Generally, the most appalling malpractice cases we receive are ones in which the injuries our client sustains are the result of intentional acts, rather than an accident or case of negligence.

Our client was a patient at a nursing home. She was in a section of the nursing facility where patients require complete care. She fully relied on the employees of the facility for all her daily needs. Our client was not able to speak and had a limited ability to communicate. One morning during her stay, a CNA (certified nursing assistant) at the home walked past our client's room and saw a sexual assault in progress. She made no attempt to stop the assault. She left the room and went to another part of the facility. *(Continued on next page)*

Medical Malpractice Case *(continued)*

On her way down the hall, she passed her supervising nurse, but said nothing to him about what she had just witnessed. When she arrived at another part of the facility, she reported what she saw to another CNA. They did not intervene in or report the assault to anyone else in the facility, and instead called a nursing supervisor who was not working that evening. Calls were then made to the Director of Nursing, the administrator of the facility, and eventually, to the police.

Our client was transported to a hospital, where she underwent an intensive forensic examination. The assailant made a full confession to assaulting our client. He was convicted of one count of rape.

An expert witness opined that the standard of care was clearly violated by not stopping the assault, by allowing it to continue, and by not attending to our client in the immediate aftermath of the assault. Further, multiple reports of questionable behavior by the assailant should have been investigated prior to this incident. The case was presented to a jury on the issues of negligence and sexual battery.

After a five-day trial, the Albemarle Circuit Court jury reached a verdict of \$1.75 million against the nursing home. The case was appealed to the Supreme Court of Virginia, who remanded the case for a new trial. The case was later settled for the verdict amount.

FROM THE DESK OF VADEN WARREN



A few weeks ago, I spent the night at my parent's house in my hometown of Crewe, Virginia. The next morning, there was a men's prayer group at the local community center. I went with my father and enjoyed the fellowship and a good breakfast.

There was a quick devotional that was based around the idea that "no one makes it alone." I will preface this by saying I know that I have not "made it," but I realize The Warren Firm has relied on the support of many people to get to where it is today: my wife, my parents, siblings, other my family members, our fabulous team, members of the Virginia Trial Lawyers Association, other attorneys and associates, and most importantly, our clients who put their trust in us to help them.

As Thanksgiving approaches, I feel extremely grateful for all those who have supported me, and my firm, as we continue to work with others to help them.



My daughter is studying in Valencia this semester. We were excited to get the opportunity to visit her in Spain!

Google Review

"I hope you find yourself fortunate enough to never be in need of Vaden's services, but if you do, know that you are in excellent hands. Vaden was comforting and kind in his demeanor. He was patient and thorough in his work. He held my hand through every step of what otherwise would have been a much more overwhelming situation. He provided sound council and still gave me plenty of autonomy to make my own decisions. If I ever find myself or loved ones in a similar situation, I would not hesitate to request his services." — B. Leisen



Vaden's Biscuit Recipe

I started making biscuits years ago. My mother makes great biscuits and I started out using her recipe. Over the years I've started straying from her angel biscuit recipe, opting instead for a more Southern biscuit. What's really nice about them is that they only require a few ingredients. For the past 5-10 years I've made them most weekends and recently I've started having fun posting them on Instagram! So while there are many ways to make biscuits, here's how I do it.

Ingredients

- 2 cups White Lily self-rising flour
- $\frac{3}{4}$ stick of unsalted butter
- $\frac{3}{4}$ - 1 cup of buttermilk

Directions

1. Preheat oven to 425 degrees.
2. Sift flour into a mixing bowl. *I think this helps keep the biscuit airy. Many people don't sift. It is a personal choice.*
3. Grate cold refrigerated butter into the flour. *I like grating. It is easy and forms good size butter pieces in the dough. You can use a pastry cutter or two knives to break the butter up into pea size pieces but grating is easier to me.*
4. Mix the butter and flour together and then add the buttermilk. *You can use regular milk but it is worth the effort to get buttermilk. The exact amount is hard because it depends on the humidity and other factors. You want enough liquid to hold everything together.*
5. With a fork mix flour, butter and buttermilk just until it can form a large ball.
6. Flour a cutting board and spread out the dough. *You can use a roller. I mostly just use my hands.*
7. Flatten out the dough and fold it in half and flatten again. Do this two or three times.
8. Cut the biscuits with a biscuit cutter and place them on a baking sheet.
9. Place in the oven and bake for 8-10 minutes.



We focus our practice on cases involving:

Personal Injury

Wrongful Death

Children's Injuries

Bicycle Accidents

Auto Accidents



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Inside this Issue

**How to Handle
Medical Malpractice**

**Learn to Make Vaden's
Famous Biscuits**

A Trip to Spain

