

Charity: Well, we're here today with Dave Farnbauch to talk about whether patients who have been harmed by substandard medical care can have compensation for what's happened to them in the legal system. So, do victims of medical malpractice have a way to seek compensation if they've been harmed by this substandard medical care?

Dave Farnbauch: Well, Charity, that's sort of a complicated question in the sense that some people have access to the legal system when they are the victim of medical malpractice. And, unfortunately some victims of medical malpractice as a practical matter really don't have access to the legal system. Let me explain why that is. Medical malpractice cases are such that they, in our state, they have to go through a medical review panel process. They involve a significant investment of time, money, and energy.

Dave Farnbauch: In particular, these cases require that in order to pursue them in a legal case, you have to have expert testimony. We have to get medical doctors and various experts to testify that there was a breach of standard of care, to testify about the damages. The reality is to hire medical experts for a medical malpractice case can be very expensive.

Charity: Sure.

Dave Farnbauch: So, when we screen cases, we make decisions about which cases we're going to take in. We have to make a decision about whether the patient's damages and harm are sufficiently severe that we can afford as a practical matter to invest all this money and time and energy that's required to pursue a case, so that it will justify the investment of that time, money and energy into the end result, which is the damage award.

Dave Farnbauch: There's many patients who are malpracticed upon. For example, we get lots of calls about dental injuries and dental harm, or cases that involve short hospitalizations, or really bad things that happen to people, but they're short term. So, they call our office and they make an inquiry about whether we can pursue a case. It sounds like there was definitely malpractice involved, but we have to tell these unfortunate patients that there's just simply nothing that we can do as lawyers to right that wrong and try to pursue financial compensation, because the harm isn't sufficiently severe.

Charity: Right. So, are there features of Indiana's law that make it more difficult for those patients who have the smaller, more modest medical malpractice claims to access the legal system?

Dave Farnbauch: Yes. The most prominent obstacle that people have in Indiana, consumers have to pursuing a small to midsize medical malpractice case, is this thing that we've had since 1975 called the medical review panel system. Before a consumer can bring a medical malpractice case in a court of law, we have to take the case through a medical review panel consisting of three physicians. The parties have

to pay for those doctors that are part of the medical review panel. That panel's system or that process can take, usually it takes a year, a year and a half, can take up to two years.

Dave Farnbauch: So that's a whole layer of additional time, money, and energy, and cost that makes it very difficult for somebody just to pursue a simple, straightforward medical malpractice case where the damages are relatively small or a midsize type medical malpractice case.

Charity: It's almost like you have to do it twice.

Dave Farnbauch: It's almost like, to have a medical malpractice case in Indiana, you better have some very serious injuries or... the reality is you better be deceased or lawyers are going to take a hard look at the case and decide whether it's something that's feasible to prosecute.

Charity: Well, if you believe you've been a victim of medical malpractice, Sweeney Law Firm will talk to you about it, will consult with you. All you have to do is give them a call, 420-3137.