

Washington State Supreme Court Rejects Patient Pre-Filing Requirement

By Catherine Bertram

The [Washington State Supreme Court struck down a law](#) requiring 90 days' notice to doctors before filing suit against them.

The court decided that the law violated the doctrine of "separation of powers", the idea that the three branches of the government--the courts, the governor, and the legislature--have defined roles and should not interfere with each other. Because the law imposed more restrictions than a Washington court rule, the court held that the law impermissibly interfered with the judicial branch's rules.

Last September, [the same court struck down a law](#) requiring potential plaintiffs to obtain a "certificate of merit" from a doctor stating that the care the plaintiff received was negligent. If the injured person couldn't obtain the certificate in time, they couldn't file the complaint.

The District of Columbia passed a similar 90-day-notice law in 2009. Backers said the law would encourage pre-litigation settlement, but in practice it has not led to any measurable numbers in terms of settlement of any significant medical malpractice cases. In addition, If a patient is not aware of the requirement and files to follow the rules, that patient's case might be dismissed even if the patient has a very strong case of medical malpractice.

Maryland, and Virginia also have "certificate of merit" requirements as well. For these reasons it is very important for patients and their families to hire

experienced attorneys and law firms who specialize in medical malpractice to be certain that your rights are protected.

About the author:

Catherine Bertram is board certified in civil trials and was recently nominated as a 2010 Super Lawyer for Washington, D.C. Ms. Bertram has 20 years of trial experience and is unique in that she was formerly the Director of Risk Management for Georgetown University Hospital so she brings a wealth of knowledge to her practice including how hospitals should be run and what doctors and nurses can do to protect patients. She is a partner with the firm and devotes her practice to the representation of patients and families of loved ones who have been injured or lost due to medical errors. Ms. Bertram lectures regularly to lawyers and health care providers, nationally and locally, regarding patient safety, medical negligence and other related issues. She has also recently published a chapter in a medical textbook. She can be reached by email at cbertram@reganfirm.com or by phone 202-822-1875 in her office in Washington, D.C.