When Can Failure to Diagnose Cancer Be Medical Malpractice in Florida?

How Florida Law Separates a Missed Diagnosis From Reasonable Medical Judgment

A delayed cancer diagnosis in Florida can turn a treatable illness into a far more serious one. Early symptoms often resemble less serious conditions, and even careful doctors can reach the wrong conclusion. But when a provider overlooks warning signs, fails to follow up on an abnormal result, or skips testing that a reasonably prudent provider would have ordered, the delay may become medical malpractice.

Under Florida Statutes Section 766.102, a patient generally must prove that a healthcare provider failed to meet the prevailing professional standard of care and that the failure caused harm. In a cancer case, that often means determining what the provider knew, what the available information showed, and whether reasonable care called for additional investigation.

At The Law Offices of Casey D. Shomo, P.A., Florida medical malpractice attorney Casey D. Shomo represents patients and families harmed by medical negligence, and he personally oversees every case. That includes delayed-diagnosis cases, where the dispute often centers on what a doctor should have recognized and whether earlier action would have changed the patient's outcome.

What to Know

- **Not Every Delay Is Malpractice** – Florida law asks whether the provider's decisions met the prevailing professional standard of care under the circumstances at the time.
- **Follow-Up Failures Matter** – An abnormal result that nobody acts on can cause as much harm as a scan or biopsy that was misread in the first place.
- **Causation Is Often the Key Issue** – Medical experts must show that an earlier diagnosis likely would have changed the patient's treatment or outcome.
- **Pre-Suit Steps Apply** – Florida requires an expert-supported investigation before a medical malpractice lawsuit can be filed in court.

How Can a Cancer Diagnosis Be Missed or Delayed?

Many cancer symptoms are not unique to cancer. Fatigue, headaches, abdominal discomfort, weight changes, and other symptoms can have numerous explanations, and doctors are not expected to assume that every symptom means cancer.

They are expected, however, to respond reasonably to the information in front of them. A pattern of persistent symptoms, abnormal test results, or other warning signs may call for additional investigation. Potential diagnostic failures can include:

- **Failing to Investigate Persistent Symptoms** – Symptoms that continue, worsen, or repeatedly bring a patient back for care may require additional testing or a different diagnostic approach.
- **Failing to Follow Up on an Abnormal Result** – An abnormal blood test, imaging study, or other finding may require further evaluation rather than being left unresolved.
- **Failing to Order Appropriate Diagnostic Testing** – Depending on the patient's symptoms and history, additional imaging, laboratory testing, a biopsy, or another study may be warranted.
- **Misreading a Diagnostic Study** – A radiologist or pathologist may fail to identify or accurately characterize an abnormality on a scan or a tissue sample.
- **Failing to Make a Timely Referral** – A primary care doctor may need to involve an oncologist, surgeon, or other specialist when the condition calls for expertise beyond that role.
- **Failing to Communicate Results** – A significant test result may be identified but never reach the patient or the physician responsible for arranging follow-up care.

None of these situations automatically establishes malpractice. The question is whether the provider's decisions met the standard of care under the circumstances, based on what the provider knew or should have known at the time.

When Can Failing to Order More Tests Be Malpractice?

Doctors make judgment calls about diagnostic testing every day. Florida law does not make a physician liable simply because another test could have been ordered.

Section 766.102 specifically addresses this issue. It states that a healthcare provider's failure to order, perform, or administer supplemental diagnostic tests is not actionable when the provider acted in good faith and with due regard for the prevailing professional standard of care.

That means a cancer misdiagnosis claim generally requires more than showing that an additional test might have identified the disease earlier. The table below shows some of the factors medical experts may examine.

What Experts May Examine	Why It Can Matter
The symptoms the patient reported	Shows what the provider was told and when
How long symptoms lasted and whether they worsened	Persistent or worsening symptoms can call for more testing

What Experts May Examine	Why It Can Matter
The patient's medical and family history	Can raise the risk of cancer and the need for a closer look
Previous test results and examination findings	Can reveal warning signs that were already on record
The possible diagnoses the doctor considered	Shows whether cancer was reasonably ruled out
Repeat visits for the same unresolved problem	An unresolved complaint can call for a new approach

A patient making one visit for a common symptom presents a different situation from someone returning several times with persistent symptoms, abnormal findings, or a worsening condition.

What Happens When an Abnormal Test Result Is Not Followed Up?

Sometimes cancer is diagnosed late not because an abnormality was impossible to see, but because a warning sign was documented and nobody took the next step. An imaging report may identify a suspicious mass and recommend another study, or a laboratory or pathology finding may call for further investigation.

The breakdown can happen in several ways:

- The doctor does not review the result.
- The result reaches the doctor but is not communicated to the patient.
- Recommended follow-up testing is never ordered.
- A referral is made but never completed.
- An abnormal finding is dismissed when additional evaluation was warranted.
- Multiple providers are involved, and nobody takes responsibility for follow-up.

Finding out what happened often requires reconstructing the record. Electronic medical records may show when a result became available, who viewed it, what recommendations were made, and whether anyone contacted the patient. Those details can help determine whether the delay resulted from reasonable medical judgment or a preventable failure.

How Does a Delayed Cancer Diagnosis Cause Harm?

Showing that a provider made a diagnostic mistake is only part of a Florida medical malpractice claim. The patient must also show that the mistake caused additional harm, and this is often one of the most important issues in a delayed cancer diagnosis case.

The cancer already existed when the provider allegedly missed it, so the question is what difference the delay made. Medical experts may need to determine whether an earlier diagnosis likely would have changed the treatment, the prognosis, or the extent of the patient's injuries. Harm from a delayed diagnosis may include:

- Cancer progressing to a more advanced stage
- Cancer spreading to another part of the body
- The need for more extensive surgery
- Additional chemotherapy, radiation, or other treatment
- Loss of treatment options that were available earlier
- Death when earlier treatment likely would have changed the course of the disease

The answer depends on the specific cancer, how quickly it progressed, and how much time passed before the correct diagnosis was made. When a delay ends in a patient's death, certain family members may be able to pursue a wrongful death claim.

Who May Be Responsible for a Delayed Cancer Diagnosis?

Diagnosing cancer can involve several doctors and healthcare providers, and the provider who eventually discovers the cancer is not necessarily the one responsible for the earlier delay. Depending on what happened, primary care physicians, emergency room physicians, radiologists, pathologists, surgeons, other specialists, and hospitals or healthcare facilities may all be involved.

More than one provider may contribute to the same delay. A radiologist might correctly identify a suspicious mass, for example, but the ordering physician may fail to arrange the recommended follow-up or refer the patient to a specialist. In another case, a physician may order an appropriate biopsy, but a pathology error leads to malignant tissue being classified as benign.

A careful investigation should identify where the diagnostic process broke down and what each provider knew at the time.

What Evidence Matters in a Failure to Diagnose Cancer Case?

The medical record often tells the story of when symptoms first appeared, what testing was performed, and when cancer was finally discovered. Because the delay may stretch over months or years, records from several providers may need to be reviewed together. Important evidence can include:

- **Office Records** – Notes documenting symptoms, physical findings, and the doctor's diagnostic assessment at each visit before the cancer was found.
- **Imaging Studies** – X-rays, CT scans, MRIs, mammograms, or other studies that may show when an abnormality first became visible.

- **Pathology Materials** – Biopsy reports, pathology slides, and related records that an independent pathologist can review for missed findings.
- **Laboratory Results** – Tests that may have provided an early warning of a developing condition before cancer was diagnosed.
- **Referral Records** – Documentation showing whether and when the patient was sent to a specialist, and whether the visit happened.
- **Electronic Medical Record Data** – Information showing when test results were received, viewed, or communicated to the patient and other doctors.
- **Later Cancer Records** – Oncology, surgical, and treatment records showing the eventual diagnosis and how far the disease had progressed.

Qualified medical experts can use those materials to evaluate what a careful healthcare provider in the same situation should have done and whether an earlier diagnosis likely would have changed the outcome.

How Long Do You Have to File a Cancer Misdiagnosis Claim in Florida?

Timing can be particularly difficult in delayed diagnosis cases, because patients may not realize that an earlier opportunity to identify the cancer was missed.

Under Florida Statutes Section 95.11(5)(c), a medical malpractice action generally must be filed within two years of the incident or within two years from when the incident was discovered, or should have been discovered with due diligence. Florida law also generally imposes a four-year statute of repose measured from the incident.

Exceptions can apply, including certain claims involving children and situations involving fraud, concealment, or intentional misrepresentation. Under Florida Statutes Section 766.203, the claimant must also conduct a pre-suit investigation supported by a verified written medical expert opinion before filing a lawsuit.

Because the deadline depends on the facts and history of the individual case, a patient should not assume the time to bring a claim began only when the cancer was finally diagnosed.

Finding Answers After a Delayed Cancer Diagnosis

A delayed cancer diagnosis can leave a patient with difficult questions about what happened and whether earlier care could have changed the outcome. Answering those questions often requires reconstructing the medical timeline from the first symptoms through the eventual diagnosis.

Casey D. Shomo brings more than three decades of medical malpractice litigation experience to these cases, and his case results include significant recoveries for patients and families harmed by diagnostic errors. The Law Offices of Casey D. Shomo, P.A. represents patients and families throughout Florida on a contingency fee basis.

If you or a loved one received a cancer diagnosis after unexplained symptoms, abnormal test results, or missed follow-up care, contact us today. Mr. Shomo can review your situation, answer your questions, and explain your legal options. If you have a claim, he will stand by your side and fight for the compensation you deserve.