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Medical Malpractice Lawyers – You Never Know When You May Need One

By Tyson J Stevenson

Medical malpractice occurs when a health care provider who by an action or omission deviates from the accepted norms of practice in medicine leading to injury/ death to a patient.

Many deaths occur due to medical malpractice. A health care provider is not just the doctor or the surgeon but includes nurses, dentists, therapists, hospitals, clinics etc. Medical malpractice law is derived from the general negligence law. Various laws have evolved in the US, England, Australia and other countries, which are similar in concept for control of medical malpractice.

Claims are made for negligence, misdiagnosis, improper medication etc. Claims can even be made where informed consent of the patient is taken. Claims can also be made against corporations, hospitals, clinics for the mistake of their employees based on vicarious liability. The patient has the right to claim economic and non-economic damages.

However in medical malpractice cases, the burden of proof lies with the plaintiff (patient). Hence the patient should hire a good lawyer. Three things have to be proved by the plaintiff:

- The health care provider failed to provide adequate and reasonable care to the patient.
- This failure to provide adequate care to the patient has resulted in damage or loss to the patient.
- The health care provider is liable to pay the damages or loss.

The damages are of two types, compensatory and punitive. Compensatory damages are of two types economic and non-economic damages. Economic damages are monetary losses like, medical care, medicines and loss of wages. These damages can be in the past or future. Non-economic damages are the ones like loss of organ or vision, pain, disfigurement, embarrassment emotional stress etc.

Punitive damages are very rarely awarded. Medical malpractice cases are complicated because when the patient is admitted he is already injured or ill and hence the damage caused by negligent medical care has to be assessed independently of the earlier illness or injury.

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A further obstacle in medical malpractice case is that expert witness is to be provided by the plaintiff. Very few doctors are willing to testify against another doctor even when the case of negligent care is clear. On the other hand the defendant lawyers have a pool of doctors to defend the case of negligent medical care. Usually medical malpractice attorney firms provide expert testimony on the care provided by the health care provider. Some medical malpractice lawyer firms provide free case evaluation and take medical malpractice cases on contingent basis that is until the firm wins the case for the client, the client need not pay for the services of the lawyers. In medical malpractice cases it is vital to obtain the medical records as early as possible by the patient or his representative.

Most healthcare providers take medical malpractice insurance. There has been an ongoing debate by doctors and their medical malpractice insurance companies against excessive jury awards. Generally insurance companies rarely go to trial where large penalties are involved. However it must be remembered that the insurance companies and health care providers are willing to fight it out against

spurious medical malpractice claims. The procedure for filing a medical malpractice claim varies from state to state.

Tyson J Stevenson writes on a wide variety of "every day" subjects, always with valuable news & reviews. Expect to see his name often. A related resource is

<http://bestmedicalmalpracticelawyers.info>

Medical Malpractice Lawyers

By Keith George

When an injury occurs to a patient due to improper conduct by a health care provider, it is termed medical malpractice. Medical malpractice lawyers are specialized in this field.

Thousands of deaths and injuries occur every year due to medical malpractice. Medical malpractice is not restricted only to the doctor but by legal definition encompasses nurses, dentists, therapists, radiologists, laboratory technicians, clinics, hospitals etc. There are stringent for curbing medical malpractice.

Numerous lawsuits are filed every year for medical malpractice in the US. The patients or their near ones have the right to claim for economic and non economic damages. Generally claims are made for improper medication, improper surgery, misdiagnosis, negligence etc. The patient can file a claim lawsuit even when the informed consent of the patient is taken. The principle behind these types of claims is that the doctor is not absolved of responsibility even if the consent of the patient is taken.

Medical malpractice cases are complicated for various reasons. The primary reason is that when the patient comes under the care of the health care provider he/she is already ill or injured. Hence it becomes complicated to assess the damage caused by negligent medical care independent of the earlier illness or injury.

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Another complication in medical malpractice is that the burden of proof is on the plaintiff (patient or the medical malpractice lawyers). The plaintiff needs to prove three things in court:

That the health care provider has failed to provide the patient with adequate and reasonable care.

That this failure to provide reasonable care is the cause of the damage caused to the patient.

Hence it is the liability of the health care provider to pay for the damages.

A further complication that arises is that the plaintiff has to produce expert witness. There are very few doctors willing to testify against a fellow doctor, even in cases of gross negligence. Hence it is vital to hire a good and experienced lawyer, a medical malpractice lawyer. Most law firms take medical malpractice cases on contingent basis and provide expert witness also.

Contingent basis means the law firm gets paid from the damages recovered from the defendant. Most of the medical firms are covered by insurance. Generally the insurance companies shy away from paying damages to the patient but if the patient is represented by an experienced lawyer they are willing for an out of court settlement. This is to avert the risk of a trial and the court may award more penalties.

The courts generally levy two types of penalties on the defendant that are compensatory and punitive penalties. Compensatory penalties are given to make good the damages to the patient. They are of two types of compensatory penalties, economic and non-economic damages.

Economic damages are awarded to compensate for monetary losses like medical care cost, medicines

cost, loss of income. The economic damages are awarded for both future and past losses.

Non-economic damages are awarded to compensate for non economic damages like pain, disfigurement, embarrassment, emotional stress etc. Punitive penalties are awarded to punish the health care provider however they are rarely awarded.

Keith George always writes about valuable news & reviews. A related resource is

<http://lawyers-n-malpractice.info/>

Further information can be found at

<http://the-wellbeing.info/>



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