

The avoidance of mistake and medical negligence?

Mistakes can be made by medical personnel but if these mistakes are avoidable and result in the alteration to the health or life of a patient, you may be entitled to compensation, writes Martin Kerrigan, Solicitor.

Medical Negligence (or Clinical Negligence, as it is also called) occurs when a doctor or a medical practitioner is guilty of acting in a manner which is below the standard to be expected of such a medical person resulting in consequential injury to the patient.

These negligent acts can vary from a failure to read a scan correctly to a failure to diagnose a patient and even surgical errors. Unfortunately, if mistakes occur during surgery for example, they can be catastrophic for a patient, as they can lead to permanent, life altering injuries and, in some instances, death. A medical practitioner that holds himself or herself out as being a specialist in a particular field, is required to possess the same ordinary level of skill as others that specialise in the same field. Where a specialist is practising without this level of skill and an injury occurs, they might be found negligent for the consequential injury to the patient.

An example of this arose in the case of *O'Connor v Murphy* [2008]. The patient attended an orthopaedic surgeon to have an artificial right hip joint fitted. The

artificial joint was misaligned and the cortex of the right femoral shaft was perforated allowing the cement used to bend the new joint out of place. A further two operations were required to fix the problem. The trial judge opined that the orthopaedic surgeon was negligent in the manner in which he carried out the procedure. Furthermore, he felt that the surgeon should have ensured that no perforation had taken place by an inspection of the cortex immediately after reaming. He also felt that the doctor was negligent in fixing the artificial joint in a misaligned position. The correct approach for a specialist of this field, was to use a guide wire. This would have made it almost impossible for perforation to occur to the femoral cortex. The Judge was of the view that as negligence occurred resulting in consequential injury, the patient was entitled to compensation.

If you have suffered an injury as a consequence of medical treatment and think you may be entitled to compensation, it is best to engage the advice of a qualified professional as soon as possible. Berwick Solicitors have specialised in this area for many years.

In contentious business, a Solicitor may not calculate fees or charges as a percentage or proportion of any award or settlement.



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