

O'Shea Russell
SOLICITORS



COMMISSIONER FOR OATHS



At O'Shea Russell Solicitors, Main Street, Graignamanagh, County Kilkenny our Dedicated Personal Injuries Department specialises in MEDICAL NEGLIGENCE CLAIMS

MEDICAL MALPRACTICE DOs and DON'Ts

If you feel that you or a family member have incurred needless pain, suffering or additional injury as the result of the carelessness or mistakes of a doctor, Medical Institution or other medical or psychological therapist or professional, then you may have a case for malpractice. Malpractice cases can be very complicated and tough to prove. Make sure you don't add to the complication by making mistakes early on.

The best advice we can give you regarding Medical Malpractice is this: if you suspect that you or a family member have suffered as a result of insufficient, improper or inappropriate medical or psychological treatment then contact us for a **FREE FIRST CONSULTATION** with an experienced Medical Malpractice Solicitor:-

What To Do In Case Of Medical Malpractice:

DO's:

- 1. *Seek legal advice*** as soon as you suspect you or a family member might be the victim of medical malpractice.
- 2. *Insist on certified copies*** of all medical records relating to your treatment. Medical records are confidential but, as the patient, you have a

right to all records—including charges. Your Solicitor will access these for you.

3. *Keep a diary* with notations on everything the doctor or medical facility and staff told you or instructed you to do.

4. *Keep an accurate chronological record* of when you first sought treatment, the names of any specialists you were referred to, outpatient care, etc.

5. *Seek a second opinion* from a qualified doctor but do not share your suspicions of malpractice with the second doctor.

6. *Seek the advice* and representation of a Solicitor who focuses on this area of medical malpractice.

7. Do Take Care to Preserve All Evidence Related to Your Suspicion of Medical Malpractice

It is important to keep all of the evidence which may be related to the malpractice, the healthcare providers at issue, and the harm which resulted. The available documentation will vary from case to case. Here are a few examples:

- Appointment cards
- Authorizations and waivers
- Medical billing statements/records
- Prescription records
- Medical records (Your Solicitor can help you access these).
- Prescription bottles
- Photos of wounds, scars, or other injured areas

Not all of these materials may apply to your case, and others may be long lost. However, keeping what you have is important, and providing them to your Solicitor will help expedite the process.

DON'Ts

1. *Don't Assume Nothing Happened* We all want to believe in the competence of those entrusted with our medical care. In addition, often, when suspicions of malpractice are raised, the patient is told something by the healthcare provider to minimize those concerns, such as “this just happens sometimes” or “that’s just the risk of this procedure.” While risks are a fact of medicine, there is a distinction between risk and neglect. Just because there is a known risk to a medical course of action, that does not alleviate the healthcare provider from minimizing the risks. Do not allow your suspicion of medical malpractice to go unanswered without proper investigation.

2. *Don't talk to Administrators without First Consulting a Solicitor*

When we are mistreated in a healthcare situation, administrators, and specifically risk management personnel, are not there to represent your interests, but rather to protect the medical institution and its staff.

It is important to consult a Solicitor before saying anything to administration. A Solicitor who works for you will be able to ensure that any exchange of information with the administration is appropriate, fair and in your best interest.

3. *Don't Wait to Seek Legal Advice*

The legal system, when it comes to medical malpractice cases, is often tilted in favour of the healthcare institution, rather than the victim. For example, the law benefits the healthcare providers by placing deadlines or ‘statutes of limitations’ which limit the amount of time a victim has to file a medical malpractice claim before they become barred. In some instances, this clock begins ticking at the instance of malpractice, not at the time of the discovery of the malpractice or of its effects. Therefore, even if the full ramifications of an act have yet to occur, the statute of limitations for filing a claim is already ticking. For this reason, you should contact a Solicitor immediately upon suspicion of malpractice.

4. *Don't Miss Your Chance to File a Claim*

Time is of the essence when pursuing a medical malpractice claim. The Law imposes strict deadlines (also called “statutes of limitations”) in medical malpractice cases that will forever bar the claim if it is not filed in a timely manner. The Law relating to the deadline can be exceedingly

complex; therefore, one should not delay in consulting a Solicitor to determine the applicable statute of limitations and review the case.

5. Don't *attempt to confront the doctor(s)*, medical staff, lawyers for the medical facility or anyone else regarding your suspicions until you've spoken with your Solicitor.

6. Don't *sign anything*, waive any rights or admit to any responsibility.

7. Don't *discuss your suspicions* with any other person outside of your immediate family and with your Solicitor.

Conclusion

Given the alarming rate of medical malpractice, anyone who is suspicious of having received negligent care is justified in having their concerns investigated. Don't simply assume that malpractice was not the cause of the harm. Instead, preserve the available evidence and promptly consult a qualified Solicitor that concentrates on medical negligence cases.

Preferably, this consultation should occur before you communicate any concerns to the administrator or risk manager for the healthcare provider at issue. By following these steps, you can help ensure that your claim is properly evaluated and that you receive the accountability and compensation you deserve.

O'SHEA RUSSELL SOLICITORS

Main Street, Graignamanagh, Co. Kilkenny

Logan Street, Thomastown, Co. Kilkenny

Tel. 059 9724106 / 9724642

Email : nicholas@oshearussell.ie

www.oshearussell.ie

