

## Medical Malpractice and Workers' Comp Claims

If you sustained an on-the-job injury or contracted an occupational disease that was subsequently aggravated by negligent or inadequate medical care, your particular state workers' compensation laws will govern your legal options vis-à-vis the additional harm you suffered as a result of the medical malpractice.

In this complicated situation, you would be wise to consult a knowledgeable workers' compensation lawyer as soon as possible to learn about your legal rights and to assist you in choosing your legal strategy.

Here are some questions designed to yield important information to aid both your attorney and the workers' comp agency dealing with your claim:

- How did the medical treatment exacerbate your original injury?
- Have you already collected workers' compensation for the original injury? For the additional harm caused by the medical negligence?
- Has either your employer or its workers' compensation insurer taken any action to bring a lawsuit against the medical provider?
- Has either your employer or its workers' compensation insurer communicated to you that it is waiving its right to a medical malpractice lawsuit?
- Did anyone communicate that you had to choose between workers' compensation and a lawsuit for the additional harm caused by the medical negligence? Did you make a choice?
- When did the medical treatment causing the additional harm occur?
- At the time of the medical treatment, were you only being treated for the work-related injury, or were there any other problems being treated?
- Who was the medical provider?
- Does the medical provider have any affiliation with your employer (e.g. rent space on work premises, operate a company clinic, receive salary from your employer etc.)?
- Are you a hospital or clinic employee who was treated negligently by your employer for the work-related injury or illness?
- Is the medical provider at all controlled or supervised by your employer?
- If there is an affiliation, do you know if the medical provider is an employee of your employer or whether they have some other type of contractual relationship?
- Have you sued the medical provider for negligence or malpractice? Has the case been resolved? Has your employer or its insurer requested reimbursement for workers' comp?

Remember that the law of your state controls and that the governing law in this situation varies widely among the states.



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