MRSA Infection and Medical Negligence

Introduction

Following recent HIQA reports, today I will discuss medical negligence in the context of MRSA.

12 unannounced assessment reports were published by HIQA last Wednesday which focus on hand hygiene and hospital cleanliness, and two announced assessment reports deal with a range of elements essential for the control and prevention of Healthcare Associated Infections. The reports are part of a new programme of work for HIQA to assess the impact of its National Standards for the Prevention and Control of Healthcare Associated Infections on improving patient safety within our hospitals.

HIQA published reports of unannounced monitoring assessments at:

- South Tipperary General Hospital
- Roscommon County Hospital
- Mid-Western Regional Maternity Hospital
- Cavan General Hospital
- Coombe Women’s University Hospital
- The Children’s University Hospital
- Midland Regional Hospital at Mullingar
- Connolly Hospital, Blanchardstown
- Mercy University Hospital

Individual reports can be viewed at: [http://www.hiqa.ie/healthcare/find-a-centre/inspection-reports](http://www.hiqa.ie/healthcare/find-a-centre/inspection-reports)

HIQA found that poor hand-washing practice in many Irish hospitals is potentially putting patients at risk of acquiring a Healthcare Associated Infection. The Authority also found wide variations in regard to hospital cleanliness.
Phelim Quinn, Director of Regulation with HIQA, commented: “A good hand hygiene practice is the single most important measure to protect patients from Healthcare Associated Infections. Staff at all levels within our hospitals deserve credit for their awareness of the importance of, and the good examples of, hand hygiene practice found by the Authority. This reflects their commitment to patient safety.”

He continued; “In many cases, however, we found hand hygiene actions were not always undertaken, or carried out in the right way, despite the efforts of the staff involved. A number of hospitals have now been asked by HIQA to evaluate their level of hand hygiene compliance, in the context of infection rates, in order to assess the impact on patients.”

During the assessments, some immediate serious risks to patients were also identified such as the inappropriate accommodation of emergency department patients with communicable/transmissible diseases.

For HIQA’s full press release click [here](http://www.lynchsolicitors.ie).

**What is Medical Negligence?**

Medical Negligence is essentially an act or omission by a health care professional which is below the accepted standard of care and which results in injury or death to a patient.

**How does Medical Negligence occur?**

Medical negligence can happen because of a number of reasons including:

- Diagnosis – misdiagnosis or delayed diagnosis
- Treatment – i.e. errors in the medical treatment such as incorrect medication, surgical errors, exposure to infection (MRSA etc)
- Disclosure – i.e. failure to inform the patient of the risks of the treatment of procedure

**MRSA infection would fall under the category of Treatment as it is due to exposure to infection, how is MRSA contracted in hospitals and how can it amount to medical negligence?**

MRSA (Methicillin Resistant Staphylococcus Aureus)

MRSA is a bacterium that normally lives on the skin and is generally harmless on the skin. It is different to normal Staphylococcus Aureus because it is resistant to a wide range of antibiotic drugs and so if it leads to an infection, it is very hard to fight. When a person has a wound, the bacteria can pass from the outside of the body where they normally live to the inside where they cause a potentially dangerous infection.

Staphylococcus Aureus is not a particularly dangerous bacteria – it is to be found on about one third of the population’s skin. It only becomes dangerous if it invades a wound such as a surgical or injury wound and/or when the patient is weakened through illness. Such victims are more likely to be found in hospitals.

Infections are a relatively normal part of hospital care. It is not possible to treat patients in a completely sterile environment. Nevertheless, Irish hospitals have a very high incidence of serious hospital acquired infections and this has been attributed to poor infection control and hygiene such as poor hand-washing practice.

**What legal issues apply to hospital acquired MRSA infections and when a client comes to you with MRSA how do you establish whether it is due to medical negligence?**

When representing a client who has MRSA we must first establish the following:

1. Is it a hospital acquired infection?
2. Was the patient swabbed for infections on admission?
3. Are there proper infection control procedures in place at the hospital?
4. Was the patient treated properly – correct use of anti-biotics?
5. Breach of statutory duties.

How is Medical Negligence proven?

There are four main steps in proving medical negligence:

- Duty of Care – a legal duty is owed whenever a health care provider or hospital undertakes to treat a patient;
- Breach of Duty of Care – it must be shown that the health care provider in question failed to follow the relevant standard of care;
- Injury – the breach of duty must have caused injury and;
- Damage – Regardless of whether or not the health care provider was negligent, there is no basis for a claim in negligence without damage, be it monetary, physical or emotional.

What legal steps do you take to establish a possible case or “cause of action”? 

Medical negligence claims, in a similar way to personal injury claims, are made up of a series of hurdles. If you do not clear the first hurdle you cannot move on to the next. To establish a case in medical negligence we need to take these steps:

- Take up copies of all medical records and check them. In some cases we may even send them to a medical records expert for analysis;
- Write to the doctor, health care professional or institution we believe is responsible for the injuries caused;
- Medical experts specialising in the particular area of medicine involved will then be asked to consider whether or not the treatment received was negligent or sub-standard and if so the extent of the damage it caused.
- If we consider that we have enough evidence to prove a case of medical negligence, then we advise starting court proceedings immediately.
- Clinical negligence cases can be settled by negotiation without the need to proceed to a full trial but they are rarely resolved without starting court action.

Making a claim for Medical Negligence

If you, or a family member, have suffered injury due to the actions or inactions of a medical professional you may be entitled to compensation. You will be able to discuss the facts of your situation, in detail, with a member of our medical negligence team. As experts in the area of medical negligence litigation, we will assess your complaint and assist you in reaching a decision on whether to make the claim or at the very least investigating it further.

Contact Us

Contact John Lynch at john@lynchsolicitors.ie or telephone us at 052 612 4344 / Freephone 1800 750 850.