

# **MEDICAL MALPRACTICE- 10 REASONS WHY YOU SHOULDN'T SUE YOUR DOCTOR**

**By: Gerry Oginski**

## **1. You like your doctor**

So, what's wrong with that? Nothing. Most of us like our doctors. That's why we trust them and keep going back to them for treatment. But should the fact that you like your doctor prevent you from seeking compensation when he or she committed wrongdoing that caused you physical and emotional injury?

The law in New York permits anyone who has been injured by another to bring a lawsuit for compensation. This law originated from common law and goes back hundreds of years. In fact in some religions there is evidence that this type of law goes back thousands of years. It makes good common sense. If another person causes you harm, you are entitled to obtain money to pay for your medical expenses, your lost earnings, your future lost earnings, the damage to your property, and of course, compensation for the pain and suffering you endured.

So, should the fact that you like your doctor prevent you from bringing a lawsuit? It might make you feel uncomfortable, but I guarantee that when you start to think about your disabling injuries and how your doctor caused them, the anger and hostility you feel will usually outweigh your fondness for your doctor.

## **2. What good will the money do for you?**

This is a common rhetorical question that defense attorneys often ask plaintiff's lawyers. "The money won't bring your loved one back", "The money won't make you whole again," "The money you're asking for isn't going to change anything..."

However, money is the only thing that our justice system allows us to recover when an injured victim sues their wrongdoer. While those comments above may all be true, we are prohibited from taking justice into our own hands. Therefore, what else can we obtain for the injured victim? Money is the only thing that allows us to pay the medical bills that were generated as a result of the wrongdoing. Money is going to make the victim more financially secure. Money will help the injured victim with ongoing medical care and rehabilitation. The injured victim will not be a burden on a City or governmental handout. Money will help his children go to school or camp. Money may help with modifications needed in his home- such as a wheelchair ramp or modified kitchen appliances.

Money can never make us whole, or replace the agony and suffering that was caused by a doctor or a hospital. But the money is supposed to make those wrongdoers think twice about doing that same action again, and hopefully prevent the next person from being a malpractice victim.

## **3. Your doctor's reputation will be tarnished**

Contrary to popular opinion (or at least from the doctor's insurance company) this is not an accurate statement. Most people living in a civilized society recognize the right to sue. The fact that a doctor has been or is sued is not that significant. If you ask a doctor if they've been sued, they will often be quick to explain how the case had no merit. Importantly, the physician will still continue to practice medicine and there will usually be no disciplinary action taken as a result of a civil medical malpractice lawsuit. The belief that a doctor's reputation will suffer a blemish if sued is simply not correct.

## **4. Your doctor will be banished from his community**

Once again, this statement is not true. The doctor will continue to practice medicine (even if

they lose the malpractice suit against them, and are required to pay the injured victim money). The doctor will not lose their license, and in all probability, the award will not be reported in the local papers, and most of his patients won't even know of the lawsuit or the award.

### **5. Your doctor will shut his medical practice**

No he won't. He might be outraged that he has to defend a lawsuit and take time away from his practice for a few days, but there is no reason for him to shut his medical practice.

In very extreme cases where the physician is a threat to the health and well-being of his patients, the New York State Department of Health can and will shut down the doctor's practice and revoke his license to practice.

But, in the majority of cases, this does not happen, and the doctor continues on with his practice and his life.

### **6. Your doctor may lose his license**

Not true. A civil lawsuit in New York has no effect on whether a doctor does or does not lose his license to practice medicine. In order for a New York doctor to lose his license, the New York State Department of Health investigates a complaint of wrongdoing. After extensive investigation and after a hearing where the physician gets to explain what happened and why, the Department of Health reaches their own conclusions about whether treatment was rendered in accordance with good medical care or whether there were deficiencies.

The options to punish or cure the deficiencies are many, and only as the most extreme- and last resort option would the Health Department revoke a physician's license. But simply by bringing a lawsuit against a physician for monetary compensation does not affect his license to practice medicine.

### **7. Your doctor may alter your records**

Believe it or not, this has been known to occur in rare instances. When it does, the attorney representing you may be able to prove it. If your lawyer is able to prove that your doctor altered your records, the doctor could suffer significant penalties and could lose his license to practice medicine. The fact that he may or may not alter your records should not prevent you from investigating and/or pursuing an action on your behalf. There are usually other ways to determine what treatment was rendered, and often such action by a doctor can help your case by showing the extent to which the doctor tried to cover up the wrongdoing.

### **8. Your doctor may apologize and tell you it was all a mistake**

There are recent medical and insurance studies that have confirmed that when doctors and hospital staff are straightforward and honest about what happened, patients and their families tend to understand that 'not everyone is perfect'. In fact, some hospitals encourage the doctors to fess-up and tell the patients they screwed up, and apologize, and arrange to have the hospital immediately reconcile financially with the patient and his family. The studies indicate this works.

Does that mean that you shouldn't sue because the doctor apologized? Not necessarily. An apology may not solve your problems. You need to decide whether such an apology is sufficient. Most people will tell you it's not.

### **9. Your friends and family may think you're a gold-digger**

If you live your life concerned about what your friends and family think, then maybe you shouldn't sue-under any circumstance. Your friends have not experienced what you have gone through. Nor do they live with the constant pain and disability that you have. They may not

truly understand what you will live with for the rest of your life.

Some folks simply don't want their friends and family to know they're involved in a lawsuit. The reasons are endless. "I don't want anyone knowing my business." "I don't want my neighbors knowing how much of an award I received." "I don't want my family members asking me for money- this is for my future- I can't work anymore, and I can't afford to give it away." "I don't want my relatives to argue with me about why I sued my doctor."

You must decide for yourself whether these concerns outweigh your legal right to bring suit and recover money for your injuries.

### **10. Your injuries aren't that disabling**

There are cases where the injuries are significant, but have cleared up after many months or years. The fact that you may no longer be permanently disabled is a factor to determine how much your case is worth. If you are no longer disabled- we congratulate you and your success in overcoming your injuries. If you can do those activities that you used to do, we are extremely pleased with your recovery. You should know however, that such success means that the value of your case may be limited to the time you were injured and disabled. Most people would agree with this result. You only can receive compensation for the time you were injured and disabled.

Many injured folks may make a recovery, but still be unable to do all of those daily life activities they used to do. Where there is an ongoing problem or disability, the value of your case is generally greater than where you have totally healed.

Attorney Oginski has been in practice for 18 years as a trial lawyer practicing exclusively in the State of New York. Having his own law firm, he is able to provide the utmost in personalized, individualized attention to each and every client. In our office, a client is not a file number. Clients are always treated with the respect they deserve and expect from a professional. Mr. Oginski is always aware of every aspect of a client's case from start to finish.

Gerry represents injured people in injury cases and medical malpractice matters in Brooklyn, Queens, New York City, the Bronx, Staten Island, Nassau and Suffolk Counties. You can reach him at <http://www.oginski-law.com>, or 516-487-8207. All inquiries are free and totally confidential.