



Do I have a Medical Negligence Claim?

The answer depends on the circumstances and the evidence.

Medical negligence involves three key elements:

1. the actions of the particular medical practitioner fall below the standard of accepted practice in South Australia (known as liability); and
2. because of these actions (which could be something they have either done or failed to do) you have experienced a loss (known as causation); and
3. the loss can be 'quantified' ie is worth monetary compensation.

Unless your situation involves all of the above,

there is no claim.

To better understand how medical negligence claims arise, consider the following South Australian case. It demonstrates how a failure to properly follow up test results can lead to a successful medical negligence claim.

The surgeon took a biopsy of the lump in December 1994. Although the patient was told to follow up the results of the biopsy later that day and attend a further appointment the following month, she failed to do so. As it turned out the cytology report indicated a high suspicion for cancer.

The surgeon claimed he did not see the report (at least not until late October 1997). Neither did he record in the patient's records that he had taken the biopsy, attempted to follow up the cytology report or contacted her for the follow up appointment.

By the time the lump was removed on 25 September 1995, disease had spread.

The Court confirmed that the surgeon owed a duty to find out what the outcome of pathological testing was and to offer treatment which was appropriate considering the results. Consequently he was found negligent for failure to do so.

Additionally, the Court found on the balance of probabilities that if the cancer had been diagnosed in December 1994, then appropriate treatment at that time could have cured the disease or significantly increased life expectancy.

If you have had an injury which has resulted in time off work (generally 6 months or more and could be ongoing), assistance from your family members and/or a commercial cleaner and you potentially need further treatment, then arrange a time to speak with us. Your first conversation is a **free, no obligation interview** to discuss further and for most claims we can offer a **no win, no fee** arrangement.