



## Video: How can I make a medical negligence birth claim?

In this video, [medical negligence lawyer Suzanne Pinyon](#) explains what constitutes a medical negligence [birth injury claim](#) and how you can proceed with making a claim for compensation.

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### **TRANSCRIPT:**

A birth injury claim arises when there is a breach in the duty of care that's owed by a doctor or a hospital to a mother and the baby during pregnancy, labour or birth.

## What is a doctor's duty of care?

When a doctor treats a patient, a doctor patient relationship is established. This extends to nurses, dentists, any allied health professionals like chiropractors and physiotherapists. Once that relationship is established, a duty of care arises. That's a duty of care to provide the treatment in a skillful, prompt

and proper manner.

Breaches of duty of care are rare, but they do happen. And when they happen, you may be entitled to take a medical negligence claim.

## Does a doctor have a duty to advise of risks?

Complications can arise with any medical treatment and part of the doctor's duty of care is to discuss with the patient the risks and benefits of any particular treatment so that a patient can make an informed decision about whether they wish to undergo treatment.

Complications can still arise even when the risks have been explained to a patient and those risks, if they eventuate, may not give rise to a breach in the duty of care, but sometimes they do and that's when a claim can arise.

Some of the types of breaches that may give rise to a claim in a birth injury claim include during pregnancy – failing to carry out appropriate examinations, organise appropriate tests, failing to consider or properly consider and advise the patient of test results, failing to diagnose a high risk pregnancy and or manage the pregnancy appropriately, failing to diagnose, appropriately monitor and or treat a medical condition arising during the pregnancy, failing to consider or properly consider and advise the patient regarding the alternative options for labour and birth.

During labour – failing to adequately monitor the baby's heart rate, failing to monitor the progression of the labour and take appropriate and necessary action when required, failing to consider or properly consider the health and wellbeing of the mother and baby during the progression of the labour, failing to advise the mother of alternative methods of progressing the labour and birth when it's appropriate to do so, failing to recognise fetal distress, often evidenced by irregularities with the baby's heart rate, failing to expedite the delivery when the health and wellbeing of the mother or baby are compromised, failing to recognise an emergency and take appropriate action and failing to carry out a procedure during labour with due skill care and attention.

During birth, a breach of duty can include trauma to the mother from the mode of delivery, for example, vaginal delivery using forceps, trauma to the baby due to the instrumental delivery or the use of excessive force during delivery, delay in progressing the birth in circumstances where the health and wellbeing of the mother and or baby are compromised, and failing to carry out a procedure during delivery with due skill care and attention.

## What should I do if I think I have a birth claim?

If you think you might have a birth injury claim, it's important to seek legal advice early from an experienced medical negligence lawyer.

We have an experienced medical negligence team at Andersons Solicitors, and you can either contact us by telephone to make an appointment for a first free interview to discuss the specific circumstances of your injury.

Each case is dependent on its own facts and the lawyer will be able to provide you some initial advice about whether you may have a claim. Please contact us on 8238 6666 or email [enquiry@andersons.com.au](mailto:enquiry@andersons.com.au) for more information.