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MEDICO LEGAL UNIT E-NEWSLETTER

MEDICAL NEGLIGENCE

The Definition

A professional negligence by a healthcare provider in which the care provided deviates from accepted standards of practice in the medical community and causes injury or death to the patient.

The Principles

Principles of Medical Negligence:

1. Existence of duty of care between the plaintiff and the defendant
2. Breach of that duty of care
3. Presence of damage or injury towards the plaintiff
4. Causal connection between the defendant's careless conduct and the injury or damage

MEDICO LEGAL LITIGATION

A civil claim of medical negligence by plaintiff(s) against defendant(s) filed in the courts of law

What to do if you are served with a Writ of Summons?

1. Respectfully decline - Writ of Summons against employees serving in their Public Services capacity are to be served to the Attorney General's Chambers.
2. If already accepted - promptly inform Unit Medico Legal (UML) and provide a copy of the Writ.

What happens next?

1. UML will notify the case to MOH Legal Advisors via the Medico Legal Section (Medical Practice Division).
2. A Federal Counsel will be appointed by AGC to represent the defendants and manage the case.
3. Personnels involved will be called by UML from time to time for case management meetings with the Federal Counsel.

FREQUENTLY ASKED QUESTIONS

Q: Do I need to get my own lawyers?

A: No

You will be represented by Federal Counsels if you are being sued while performing your duties as a civil servant.

Q: Will I be called to testify in Court?

A: Maybe

The Federal Counsel managing the case will decide on the best way to defend the case based on their legal expertise and expert opinion from MOH. Personnels who are required to testify in Court will be contacted by the Federal Counsel and briefed prior

Q: Do I personally need to pay the damages to the plaintiff?

A: No

Damages awarded to plaintiffs in medical negligence lawsuits against MOH facilities are paid by the Government of Malaysia. **However**, a Post-payment Investigation will be conducted to determine whether the actions of any personnel involved in the case warrants disciplinary action or surcharge.

Q: Will this affect my service record?

A: No. **Unless** the Post-payment Investigation committee decides to take disciplinary action or impose surcharge towards you.

For further inquiries do not hesitate to contact us at :

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