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Stroke Claims

Stroke litigation arises when negligence by healthcare providers **during the diagnosis, treatment, or management of a stroke causes harm to the patient.** These cases are complex, often emotionally devastating, and involve severe, potentially lifelong consequences, making them among the most challenging medical negligence claims, heavily reliant on expert testimony.

Unique Challenges in Stroke Management

Stroke care is time-sensitive and complex, with three critical factors increasing the risk of errors:

- **Rapid Diagnosis:** Strokes require swift identification using tools like the FAST test (Face, Arms, Speech, Time) and comprehensive history/physical exams. Missing subtle signs, such as transient ischemic attacks (TIAs), can lead to preventable major strokes (Edlow v. Massachusetts General Hospital, 2019).
- **Appropriate Treatment Timing:** For ischemic strokes (90% of cases), clot-busting drugs like tPA must be administered within a 4–4.5-hour window and only in the right patient context to avoid catastrophic bleeding risks. Misjudging this “Goldilocks zone” can be fatal.
- **Ruling Out Mimics:** Stroke symptoms can resemble other conditions (e.g., hypoglycemia). Failing to check blood glucose, electrolytes, or coagulation factors before treatment can lead to inappropriate interventions, causing harm.

Types of Harms and Damages

Stroke-related errors can result in severe outcomes, including:

- Permanent disability (e.g., paralysis, speech loss)
- Cognitive impairments (e.g., memory loss, confusion)
- Death from untreated ischemic or hemorrhagic strokes
- Complications from improper tPA use, such as intracranial hemorrhage

Errors may occur during diagnosis (e.g., missing TIAs), treatment (e.g., delayed or contraindicated tPA), or supportive care (e.g., mismanaging blood pressure). These harms impose significant physical, emotional, and financial burdens, including costs for rehabilitation, assistive devices, and ongoing care. Litigation seeks compensation to address these impacts and reduced quality of life.

Standard of Care and Causation: Role of Experts

Plaintiffs must **prove a breach of the standard of care** and a **causal link between negligence and harm**, both requiring expert testimony. Providers are held to the standard of a reasonable practitioner (Donoghue v Stevenson, 1932). Neurologists and emergency specialists review records, imaging (e.g., CT/MRI), and guidelines to assess deviations, **such as failure to order a CT angiogram** (Bourgeois v. Nova Scotia Health Authority, 2021 NSSC).

Expert testimony must meet admissibility criteria (Suwary v Librach, 2015 ONSC):

- Relevance
- Necessity in assisting the court
- Absence of exclusionary rules
- Properly qualified expert

Delayed symptom onset or stroke mimics complicate causation, requiring experts to align with the provider's context, as seen in disputes over diagnostic tools (Miller et al v Dow et al, 2017 NBQB).

Legal Complexities

Stroke cases demand robust evidence, requiring attorneys to master medical terminology, secure imaging and records, and engage specialists. Detailed documentation, including history, imaging results, and treatment timelines, is critical to trace errors.

Inadequate records can weaken defenses against claims of substandard care. Case law highlights challenges. **Insufficient pre-filing preparation can lead to dismissal** (Khan v Lee, 2014 ONSC). Causation disputes, such as whether timely tPA would have altered outcomes, often require precise jury instructions (Uribe v Tsandelis, 2019 ONSC). Discrepancies among emergency teams' notes add complexity, as seen in Cheung v Samra (2018 ONSC), where a retrial was ordered due to flawed guidance.

Stroke litigation requires meticulous medical and legal expertise to address devastating patient outcomes. From proving negligence to navigating intricate evidence, these cases demand skilled representation to secure fair compensation.