

Hospital Injuries and Errors Continue Despite Major National Initiatives

New study reinforces the claim that Medical Malpractice abounds even with increased attention, says personal injury attorney Paul Dansker

New York, NY – (December 8, 2010) – In light of the continued incidence of medical malpractice despite increased awareness and efforts for improvement, personal injury attorney **Paul Dansker, partner at New York City-based Dansker & Aspromonte Associates**, reminds patients and their loved ones that individuals who are hospitalized have a legal right to good medical care from doctors, nurses, and hospitals.

Over 10 years ago, high rates of in-hospital deaths and injuries due to medical errors catalyzed the government, nonprofits, hospitals and other health-related organizations to work together to try to improve the rates of morbidity and avoidable accidents in hospitals.

Patients who expect the utmost quality in hospital care will be dismayed to learn that these efforts have fallen short, according to a recent study published in the *New England Journal of Medicine*. The North Carolina research team conducting the study, *Temporal Trends in Rates of Patient Harm Resulting from Medical Care*, discovered that the rate of injury to patients in 10 different hospitals did not decrease during the five-year study period.

The types of in-hospital injuries varied. Complications from medical and surgical procedures, medications, and infections that began during hospitalization were the most common. Other causes of injury included falls and mistakes in diagnosis. Close to half of the injuries resulted in longer hospitalization, and over 10 percent were permanent or life-threatening. The researchers noted that almost two-thirds of the injuries were preventable.

Dansker & Aspromonte Associates represented a four-year-old boy who went into a major New York City hospital for repair of a droopy eye lid. The hospital's anesthesia department was contracted out to a private corporation that assigned an uncertified nurse anesthetist to administer anesthesia rather than an anesthesiologist M.D.

"Sadly, the child was immediately overdosed on the Halothane gas used in the general anesthesia and stopped breathing, as the result of nurse's negligence, but the malpractice did not end there," said **Dansker**. "The hospital did not have a crash cart ready, nor was a doctor readily available to administer CPR. The child went without oxygen for a full 15 minutes before he was rushed to another hospital ER. He was left severely mentally impaired as a result."

Dansker & Aspromonte Associates settled this case (22582/97) for \$6.5 million in Supreme Court Bronx County.

Dansker & Aspromonte Associates

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“Medical professionals who do not fulfill their duty to provide good and accepted medical care and cause harm are negligent,” said **Dansker**, “and patients have an absolute right to bring a lawsuit for money damages that include pain and suffering and cost of future medical care.”

In New York State, the legal standard for medical malpractice is whether the doctor or hospital materially deviated from good and accepted medical practice in the community. (New York Pattern Jury Instructions sections 2:150 and 2:151.) Although it may sound simple, malpractice can be extremely hard to prove. However, a personal injury attorney would undertake an investigation to determine whether an injury during hospitalization or treatment resulted from failure on the part of the medical professional to use reasonable care under the circumstances.

“We often find that the alleged failures do not rise to the level of malpractice; bad practice does not always mean medical malpractice. However, when medical malpractice is proven, the patient is entitled to financial compensation to cover current and future medical expenses, lost wages, inability to earn as much money as before the injury, pain and suffering, and emotional distress,” explained **Dansker**. “Patients enter the hospital expecting to get better; being injured by the very people who should be delivering quality medical care is a tragedy that could and should be avoided.”

About Dansker & Aspromonte Associates: *Dansker & Aspromonte Associates is a New York personal injury law firm specializing in serious brain injuries, medical malpractice, motor vehicle accidents, falls, construction accidents, municipal liability, injuries to children, and more. The firm has represented thousands of clients and obtained hundreds of millions of dollars for them over the last 30 years.*

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