

Healthcare providers and suppliers undergo complex risks when treating and caring for patients. Our attorneys monitor and interpret ever-changing case law and assist clients while remaining in compliance with federal, state and local laws and regulations and with professional licensing. Our attorneys defend against a range of claims, including, but not limited to, those involving malpractice, as in wrongful death and survivor actions. We litigate product liability cases as well as other insurance-related claims, including those involving workers' compensation, environmental and directors and officer's liability.

Our attorneys have extensive knowledge of the healthcare industry and provide pertinent and timely advice to clients. We focus on the needs of our clients ranging from institutions, including nursing homes and hospitals, to non-institutional providers, such as individualized nurses and physicians. Our practice encompasses the evolving complexities of the healthcare profession, and our attorneys are highly qualified in this niche industry, which is gaining exposure and momentum.

## **Long-Term and Acute Care Risk Management and Defense**

Nursing homes and skilled nursing and rehabilitation facilities have increasingly become targets of plaintiffs' attorneys around the nation. Long-term and acute care facilities must manage risk and be prepared to defend their practices. They are now held to the highest standards with respect to preventative care and treatment.

In addition to defending our clients, we focus this practice on managing risk so that litigation may be avoided. Our attorneys train and counsel in how to avoid wounds, pressure injuries and other medical situations that often lead to legal matters. We train managers and staff on best practices for documentation, developing policies and employee education. We have given numerous talks and training sessions to help our clients stay current with laws and regulations and the best way to manage their facilities and care for their patients. These strategies control risk.

Our team has represented long-term care and acute care facilities in cases including pressure ulcers, falls, changes in mental status, alleged abuse or neglect, nutrition and accusations of errors in dispensing medicines. Our numerous years of medical malpractice defense experience help us in these cases. We also work with our clients on quality control, compliance matters and managing risk.

We have handled all types of litigation against nursing homes and skilled nursing and rehabilitation facilities. We also have workers' compensation and employment attorneys who are experienced in defending managers and owners in claims filed by employees.

Our clients include nursing homes, sub-acute and skilled nursing facilities, skilled rehabilitation facilities, long-term care facilities and healthcare management and consulting services companies. We have defended healthcare workers including doctors, nurses, nurse practitioners, CNAs, wound care specialists and other allied health professionals. We also defend employers and managers.

Our focus in any defense work is preparing our clients for all they may encounter during litigation, including extensive document collection and production to ensure discovery requirements are met, preparing clients and their employees for depositions and retaining the best expert witnesses. We also prepare clients for cases involving licensure and disciplinary matters before their respective licensing boards. In addition to defending clients in complex litigation and at trial, we also work hard to achieve settlements through alternative dispute resolution, including binding arbitration and mediation.

We have experience in cases involving violations of applicable state and federal statutes, health information privacy, HIPAA laws, HITECH matters and internal investigations. Our attorneys have successfully argued

cases in state, federal and appellate courts.

Weber Gallagher's' clients include:

- Academic medical centers
- Acute care facilities
- Health systems
- Hospitals
- Individual nurses and physicians
- Insurance companies
- Nursing homes
- Physician practices
- Providers of home healthcare services

## Experience

- Defended medical negligence action where the defendant physician was alleged to have been negligent in failing to properly diagnose and treat a woman's post- surgical infection, which followed a bilateral breast augmentation and tummy tuck procedure. As a result of infection, both breast implants were removed and the abdominal incision opened and allowed to heal by secondary intention.
- Defended a wrongful death and survival action arising from the care and treatment which the defendant physician provided to decedent, following admission to the hospital for what was diagnosed as pneumonia and possible CHF. After a five day admission, the patient was discharged. Within hours of his arrival at home, he experienced cardiac arrest. Despite appropriate resuscitation he could not be revived. A subsequently performed autopsy revealed the cause of death to be sudden cardiac death.
- Defended medical negligence action arising from a doctor's treatment of a woman's right forearm, slightly displaced inter-articular distal avulsion fracture. The doctor's treatment included a closed reduction and pinning of the right distal radial fracture. Post-operatively, the pin backed out and the fracture collapsed down and shortened. The patient was subsequently seen by another surgeon who repaired her right wrist deformity. The first doctor was alleged to have been negligent in performing the surgery without adequate fixation to prevent a collapse of the fracture.
- Defended medical negligence action arising from an inguinal hernia repair and re-do inguinal hernia repair which was performed on minor-plaintiff, initially in 2005 and for a second time in 2006. Several months following the second surgical procedure, it was determined that minor plaintiff's right testicle had infarcted. The defendant physician was alleged to have been negligent in failing to observe the blood supply to minor plaintiff's right testicle during the surgery, and in failing to diagnose insufficient blood supply to the testicle post-operatively and timely address the same.
- Defended a wrongful death and survival action arising from the stillborn death of the plaintiffs' daughter. Her mother had been a patient of the defendant physician for several pregnancies. During the pregnancy in question, Mom, who had a history of seizure disorder, experienced seizures. Laboratory tests ruled out preeclampsia. She was seen in the defendant's office where she underwent a non-stress test which was reassuring. After experiencing increasing seizure activity, she was readmitted to the hospital at which time the baby was monitored and was noted to be in good condition. The defendant physician saw her prior to discharge and recommended follow up with neurology. Four days later, she presented to the office with reports of inability to feel fetal movement. An ultrasound revealed a fetal death.
- This wrongful death and survival action arises from the stillborn death of the plaintiffs' daughter. Her mother had been a patient of the defendant physician for several pregnancies. During the pregnancy in

question, Mom, who had a history of seizure disorder, experienced seizures. Laboratory tests ruled out preeclampsia. She was seen in the defendant's office where she underwent a non-stress test which was reassuring. After experiencing increasing seizure activity, she was readmitted to the hospital at which time the baby was monitored and was noted to be in good condition. The defendant physician saw her prior to discharge and recommended follow up with neurology. Four days later, she presented to the office with reports of inability to feel fetal movement. An ultrasound revealed a fetal death. This case was tried in the Court of Common Pleas of Allegheny County in September 2011 and resulted in a defense verdict for the doctor.

- Secured summary judgment for two physicians and a physician's practice group in a wrongful death, medical malpractice case by presenting an argument that physician's actions, while allegedly below the standard of care, were outside of the factual chain of causation. Summary Judgment was granted despite the presence of expert reports against the clients.
- Successfully represented a medical facility where the petitioner filed a dependency claim alleging that the decedent died from alleged occupational exposure to radiation and other deleterious substances which eventually caused a brain tumor. Upon investigation with the client, it was determined that the decedent's radiation exposure was well below the NJDEP guidelines. The matter was resolved for a minimal Section 20 settlement.
- Successfully represented a medical facility where the petitioner filed a dependency claim alleging that the decedent died from alleged occupational exposure to radiation and other deleterious substances which eventually caused a brain tumor. We were able to successfully argue that the decedent's radiation exposure was well below the NJDEP guidelines. The matter was resolved for a minimal Section 20 settlement.
- Successfully retried a case remanded by the Supreme Court of Pennsylvania involving the Mental Health Procedures Act by representing a Psychiatrist performing a Psychiatric Evaluation on a patient with mental health disorders during his admission to a drug detoxification and rehabilitation facility. The lawsuit filed alleges that the "cocktail" of medications prescribed for detoxification created a lethal combination for the plaintiff and that a cardiac condition was missed by the ED staff. As a Psychiatrist performing a Psychiatric Evaluation, the Mental Health Procedures Act (MPHA) was implicated, increasing the burden of proof for the Psychiatrist to that of actions of willful, wanton, reckless conduct. The Trial Court ruled that the prior Supreme Court Opinion prevented the application of the MPHA in this instance. The burden of proof remained as ordinary negligence as to all defendants. The jury rendered a unanimous defense verdict in approximately 45 minutes. No appeal was filed.
- Successfully defended the insurance company after both jury and bench trials brought by various medical providers for thousands of dollars in first party claims denied based on lack of medical necessity, fraud, incomplete/insufficient/improper claims documents and excessive billing.
- Secured a defense verdict for two defendant Radiologists in a case where they were alleged to have missed the diagnosis of a thoracic aortic aneurysm on the abdominal CT scans that they interpreted 6 and 18 months before plaintiff's demise. The defense of this case surrounded the fact that a thoracic mid-ascending aortic aneurysm cannot be seen from an abdominal CT scan.
- Secured dismissal before trial on behalf of a surgeon who allegedly ligated the plaintiff's right ureter during surgery resulting in a fistula and the need for repair. This matter also involved allegations that our client did not obtain proper informed consent prior to the surgery.
- Secured dismissal on behalf of an orthopedic surgeon who was alleged to have place a wrong-sided hip prosthesis in a Plaintiff during hip replacement.
- Obtained dismissal on behalf of a municipal client in a premises liability matter where the plaintiff

- suffered a spinal compression fracture and concussion.
- Represented health care providers in a matter involving the application of the Prison Litigation Reform Act on appeal to the Third Circuit.
- Attained a defense verdict for a Family Practice Physician who allegedly delayed diagnosis of Prostate Cancer in a 65-year-old man with an elevated PSA level. The two-week trial was held in Montgomery county. Plaintiff alleged that, by the time of diagnosis, he had an aggressive Stage IV, metastatic cancer and died before the date of trial.
- Attained a defense verdict as the only remaining defendant, representing a Psychiatrist who evaluated a 29-year-old man that was admitted to the Step Down Unit of the hospital with hallucinations, delusions, erratic behavior, and a very high ammonia level when brought to the ER. Six hours after the psychiatric exam, the plaintiff got up from the bed where he was lying with his girlfriend, ran across the hall, and jumped through a 4th story window, landing on the 2nd-floor roof. He survived, but with many injuries. All other parties settled before and during the trial, which took two weeks to complete.
- Attained a defense verdict in an almost two-week trial completed in York, PA. The plaintiffs were a married couple that alleged negligence against a Christian Counselor who treated the wife at her church as she regained repressed memories related to repeated and profound sexual abuse from the time she was four years old through adulthood.