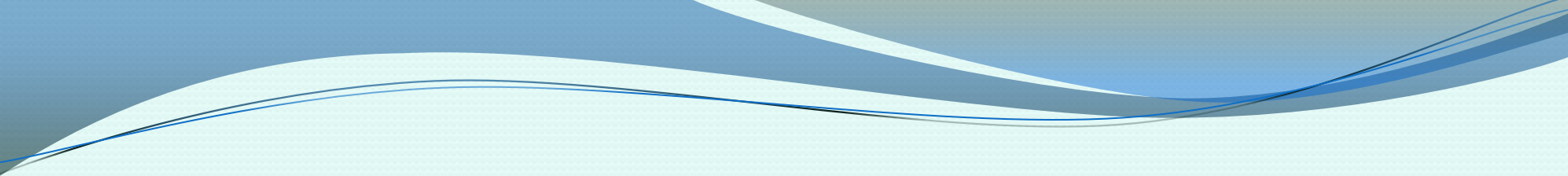


# How Courts have treated victims of medical malpractice/medical error

By Alf Kwinter



**TERRIBLY**



“Hospital cause-of-death errors happen too often, expert says”



# Failure to acknowledge errors



Up to the injured Party to prove  
the malpractice or error

# Malpractice Cases are:

- Difficult
- Lengthy
- Expensive
- Potentially, financially ruinous

# Difficult

- Must prove the malpractice
- Must find your own expert
- Not every bad outcome means malpractice or error
- Defence calls it “medical misadventure”
- Doctors/Nurses are not held to a standard of perfection
- If you do prove malpractice, must prove the malpractice caused the damage

# Lengthy

- Very few cases settle quickly
- A case can go on for years
- Defence wears people down
- Defence has unlimited resources to carry on the fight
- Even if you win at trial, expect the case to be appealed



# Expensive

- Must find an expert willing to review the case
- If case is worth proceeding with, must retain expert early on
- Experts are very expensive
- Lawyers are expensive, unless you have a contingency agreement
- There is no such thing as full financial recovery

# Potentially, Financially Ruinous

- Loser pays most of the other party's legal costs
- The costs rule stops many people of modest means from proceeding
- Can you afford to lose?

# Is the case worth proceeding with?

- Given the time and expense involved only cases worth substantial damages can proceed

# Who loses out?

- Older people
- Middle class
- Cases where there is no income or other economic loss
- Cases involving deaths of children or the elderly where there is no economic loss