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**COVID-19 IS COMPLICATING THINGS: LIKELY TRENDS IN MEDICAL MALPRACTICE
 BY JAMES S. HALICZER, ESQ.**



We hear daily about the public health and economic impacts of the Covid-19 pandemic. The news focuses first on the deaths that this horrible disease has caused. Second, the focus is naturally on the sweeping unemployment that the disease has caused and speculation on what the long term impact will be. These are undoubtedly troubling times. **What do we think about the impact of Covid-19 on medical malpractice litigation? There are several trends likely to evolve into a new normal for medical malpractice lawyers.**

First, because medical malpractice cases require expert witnesses and they often reside in cities where major hospitals and tertiary care centers are located, there was a lot of travel for depositions and conferences. This travel took the lawyers from Boston to New York to Los Angeles to San Francisco and more. It's our view that because those very same depositions and conferences have been conducted via video conference for several months now that this will be the new normal in the medical malpractice litigation space. The amount of travel will be reduced significantly and, consequently, the cost of litigating these cases will drop and the billable hours available to defense attorneys will as well.

Second, those of us who practice regularly in the medical malpractice litigation space know that cases rarely settle until a trial date has been assigned and the insurance companies know that they're either going to have to pay up in settlement or face a reckoning in the courtroom. Without trial dates that pressure cannot be brought to bear on the insurance companies who insure health care providers. **How exactly this will alter case resolution strategies within particular insurance companies is still an open question. However, three possibilities seem most likely:**

1. One, the companies will realize that they don't have to pay and they'll keep their money as long as they can;
2. Two, companies may believe that because without trials there will be great delays that plaintiffs will accept less money and attempt to resolve the cases for some number of cents on the dollar;
3. Third, the impact of the pandemic on the health care delivery system itself has been unique. The providers have been focusing on Covid-19 patients and their emergencies while routine health care and serious, but not emergent conditions, have gone unmanaged. That probably means that there is a fair amount of medical malpractice being committed, albeit unrelated to Covid-19. This could represent a significant uptick in new cases sometime in late 2021 or early 2022.

We here at HPS have been monitoring the Covid-19 pandemic and its implications for our practice from the very start. We've implemented all of the necessary technology to conduct video conferences with just about anybody at any time for any reason. We've continued to notice cases for trial, albeit with the knowledge that the cases likely won't go to trial. And, we're even beginning to see some cases that arise out of neglect due to office closures, refusals to perform elective procedures, etc. What we will continue to tell the community, whether Covid-19 related or not, is be your own advocate in your healthcare routines and if you feel that you've suffered a loss or experienced a bad outcome due to medical negligence, call the attorneys at Haliczer Pettis & Schwamm. **We can help.**

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The attorneys at Haliczer Pettis & Schwamm have over 150 years of collective experience litigating complex civil cases, with a focus on **medical malpractice, personal injury, wrongful death, catastrophic injuries and workers' compensation.**

We have extensive medical knowledge and the attorneys at our firm have investigated and litigated thousands of complex cases.

We welcome referrals and co-counsel relationships.