

Understanding Negligent Infliction of Emotional Distress



What is Negligent Infliction of Emotional Distress (NIED) and what impact does it have on medical malpractice claims in the State of Oregon? This checklist will help you get a better understanding of NIED and how it relates to medical negligence cases.

→ **Negligent Infliction of Emotional Distress Defined**

Negligent Infliction of Emotional Distress happens when person suffers from an injury as a result of a defendant's negligence and incurs emotional damages. NIED claims can be filed by the person who suffered from the physical injury as well as a witness to the negligent act.

→ **The Bystander Rule**

In 2017, the Bystander Rule was set in place by the Oregon Supreme Court for the case of *Philibert v. Kluser*. The rule states bystanders can recover from emotional injuries caused by witnessing a family member suffer from a serious injury or fatality as a result of a negligent act.

→ **A Bystander's Claim Requirements**

In order to file a valid damages claim, a bystander must witness a sudden and serious injury, be a close family member of the victim, and suffer from severe emotional trauma as a result of witnessing the negligence.

→ **The Zone of Danger Rule**

The Zone of Danger Rule allows plaintiffs to seek damages amounts if they were close enough to the negligent act that they were at risk for physical harm. This rule limits a Negligent Infliction of Emotional Distress claim to emotional trauma as the result of fear of an injury.

→ **Negligent Infliction of Emotional Distress for Medical Malpractice**

The Bystander Rule puts physicians at risk for damages claims from witnesses of negligent medical treatment of their family members. Since the 2017 Oregon Supreme Court ruling, bystanders are able to file a claim for damages resulting from emotional trauma even if they were not physically injured.

If you or your loved one were injured through medical malpractice and are suffering from emotional trauma, contact an experienced attorney at Miller & Wagner today to find out more about the Bystander Rule and NIED.



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