



Information sheet – Dr Emil Gayed

This information sheet prepared on 13 July 2018 for the assistance of clients of Carroll & O’Dea Lawyers outlines some key points in relation to Dr Gayed.

Inquiry and complaints

1. NSW Health has established an inquiry by Ms Gail Furness SC to review the actions of the local health districts at which Dr Gayed held an appointment between 1990 and 2016 in respect of the appointment of Dr Gayed, management of complaints about Gayed, and compliance with conditions imposed on Dr Gayed by relevant regulatory bodies including the NSW Medical Council. The inquiry is required to provide a report on the outcome of the review by 30 September 2018.

<http://www.health.nsw.gov.au/patients/inquiry/gayed/Pages/terms-of-reference.aspx>

You can also make a direct submission to the NSW Health Independent Inquiry by emailing gayedreview@health.nsw.gov.au

2. The Health Care Complaints Commission prosecuted a complaint against Dr Emil Gayed before the NSW Civil and Administrative Tribunal. The complaint alleged that Dr Gayed was guilty of unsatisfactory professional conduct and professional misconduct in relation to his clinical examination and management of seven patients over a three year period. On 6 June 2018, the Tribunal found Dr Gayed guilty of professional misconduct. The Tribunal ordered that if Dr Gayed was registered, it would have cancelled his registration. It also ordered that Dr Gayed be disqualified from being registered for a period of three years from that date and that the National Board record the fact that the Tribunal would have cancelled Dr Gayed’s registration. The Tribunal has yet to publish its written reasons for the decision.

<http://www.hccc.nsw.gov.au/Publications/Media-releases/2018/Dr-Emil-Shawky-Gayed---Professional-misconduct>

3. Patients wishing to lodge complaints in relation to Dr Gayed may still do so, by contacting the Health Care Complaints Commission.

<http://www.hccc.nsw.gov.au/Complaints/Online-Inquiry-Form/Make-an-Online-Inquiry/default.aspx>

Compensation claims

4. **Time limits** exist for making compensation claims. Patients wishing to obtain financial compensation arising from treatment by Dr Gayed should ordinarily make a formal claim within 3 years of the treatment, however claims may sometimes be lodged after three years if the patient has discovered new information. It would be wise to seek legal advice on this issue.

5. Claims for compensation in relation to medical advice or treatment are usually claims under the tort of negligence. Such claims focus on the existence of a duty of care, which is often uncontroversial in a doctor / patient relationship. Compensation cannot be obtained simply because there has been an adverse outcome, but rather requires evidence that the doctor or other health professional has not exercised ‘reasonable care.’

6. Even if a doctor or other health professional has made an error (in other words, has not exercised reasonable care), a claim for compensation will not be possible unless it can be proved that the error probably caused the damage that the person complains of. For example, a doctor may make an error in the diagnosis of cancer, leading to a delay in the treatment of the disease. But if the cancer was already incurable, the delayed diagnosis and treatment may have made no difference to the outcome for that person. If the error complained of is a failure to provide a warning, such as of the risks of surgery, that error may not have caused any damage if the patient would have agreed to the surgery even if a warning was given.

7. Carroll & O’Dea Lawyers has prepared this information sheet to provide general information, however legal advice directed to the specific circumstances of a proposed claim should be obtained.



Bill Madden

Email: bmadden@codea.com.au

Phone: (02) 8226 7316

International Phone: (+61 2) 8226 7316

Location: Melbourne, Sydney



Justine Anderson

Email: janderson@codea.com.au

Phone: (02) 8226 7381

International Phone: (+61 2) 8226 7381

Location: Sydney

