The following three clips are samples of my SEO writing for legal blogs. The clients' names are redacted, but the samples are still copyrighted and unavailable for sale or reposting.

Sample 3: Medical Malpractice & Informed Consent

When you're treated, whether for a minor or major medical need, your doctor is required to make sure you fully understand the treatment and its risks. This is called informed consent. This is often important in a medical malpractice case because if you don't give informed consent and then are injured, you may have the grounds for a lawsuit.

What Is Informed Consent?
In general, the concept of informed consent is pretty simple. Almost all medical treatments, even minor ones, involve some form of risk. The doctor is responsible for explaining these risks to the patient before he or she agrees to have it performed. This consent must be given for anything the doctor would like to do, whether it be an actual treatment or procedure or a test.

Most doctors do this by giving you printed forms to sign, which outline the procedure. No lawyer's ever going to miss an opportunity to advise you to read everything you sign carefully, and this is no exception, but with regard to informed consent, that's not where it ends. The doctor actually has to discuss the procedure and risks with you, including answering all your questions, regardless of how tedious or irrelevant their education tells them it really is (after all, you don't know everything they do).

So if you later find out there was a risk the doctor didn't discuss with you, even if it was written on the form you signed, and you wouldn't have had the procedure had you known, you have not properly given informed consent and may have a case. Note that not feeling as though you gave informed consent because you find out about a risk later isn't grounds for a personal injury suit — you must have been injured. (Though that doesn't mean the doctor didn't break the law, and there are other avenues for reporting that.)

What Risks Must Be Disclosed?
This is where it gets complicated. The doctor doesn't have to discuss with you every possible risk, only those that are important. Firstly, what that means depends on the procedure and your personal medical history, and secondly, it varies by state law.

So what is considered an important risk? There are two general standards for determining this, which vary by state.

Would Other Reasonable Medical Professionals Have Disclosed It?
If a state uses this standard, you'll have to hire a medical expert (or a law firm like [REDACTED], who has their own on-staff medical expert) to testify that another competent physician would've informed you. The thing is, the other doctor will also hire an expert to testify that another doctor wouldn't necessarily do that.

As such, what really comes into question is the statistical likelihood of that risk being serious enough to make it something that should be disclosed. Something being a remote possibility doesn't make it a required disclosure. That's why it's important to ask questions when you have them.

Another thing that's important to realize is that if a risk exists for people with a certain medical issue and you haven't disclosed that condition to your doctor or you don't know you've got it, the risk may not be disclosed to you. That doesn't mean you don't have a case, as some drugs or procedures do recommend testing for those issues, but it depends on the circumstance.

Would a Typical Patient Have Made the Same Decision if Informed of the Risk?
In states where this standard is employed, a doctor must also inform patients of any (realistic) alternative treatments, even if the doctor only recommends one. As such, if the patient makes the decision most reasonable patients would also make, they've still given informed consent (providing the risks were properly and fully explained).

This one usually only requires expert testimony if it's complicated to understand, but having an expert is usually a better idea than not having one.

Exceptions to the Rule
Obviously, some patients can't give informed consent. In an emergency, even if the patient or other adult capable of consenting is conscious, there's no time. These doctors just have to make their best calls. Not doing so could cause more harm than good.

The doctor may also be allowed to waive informed consent if the process of gaining informed consent would itself cause more harm than good. For example, if it could make a patient with life-threatening cardiac issues suffer so much anxiety it has adverse effects.

If you believe you've been injured when subjected to a medical procedure you didn't give informed consent to have performed, call the Baltimore medical malpractice lawyers at [REDACTED] for a free consultation.

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