Does Litigation Influence the Outcomes of Surgery in the Workers’ Compensation Arena?

Abstract:
Increasingly, concerns have been expressed about the poor outcomes following surgery in patients who are in receipt of benefits under the Workers’ Compensation Schemes. The financial burden that inevitably follows has prompted legislative changes Nationwide.

Whilst certain commentators attribute poorer outcomes to the pursuit of “secondary (financial)” gain, others invoke intangibles such as “accident/ “compensation neurosis”, or a “psychological disturbance”: notions, which some investigators believe are remedied by “financial settlement.” However, the literature would suggest otherwise and the emerging evidence is conflicting, inconsistent and inconclusive. A significant proportion of studies that vicariously attribute poorer outcomes to litigation, are eroded by methodological shortcomings, ambiguity and non-uniform outcomes measures. Other have identified the stress of litigation, financial strain, mistrust by medical personnel, the severity of the injury and bias in reporting as some of the major confounders. The appellation “abnormal treatment behaviour” identifies a third front that invokes iatrogenic contributors such as misdiagnosis, inappropriate treatment or the complications of surgery.

Thus, is it possible that unrecognised or underreported negative outcomes of surgery might contribute significantly to the poorer outcomes reported despite litigation? To this end, the evidentiary assemblage is not inconsiderable.