

## **Lack of accountability in malpractice cases**

Written by Paul Mulholland Monday, 20 October 2008 08:51

The amount of medical malpractice cases that get settled before going to court have highlighted “a lack of accountability” in the regulatory system, according to a leading expert in the area.

Partner in law firm Mason Hayes and Curran, Ms Ann O’Driscoll, told IMN that as very few medical malpractice cases actually go to trial, having been settled by the insurance companies, their details do not enter the public domain.

“Loads of malpractice cases are settled out of court,” Ms O’Driscoll stated. “They don’t enter the wider public arena and the regulatory bodies are not contacted. There is definitely a big issue with accountability about these cases.”

Other jurisdictions that use the “no fault” system, as opposed to the Tort system employed here, offer better regulatory oversight, Ms O’Driscoll claimed, as one body deals with the compensation, while another one deals with medical negligence issues.

Ms O’Driscoll, who spoke on the subject at last week’s Med-Law Conference in the RCPI, Dublin, pointed out that hospitals rarely reported these cases to An Bord Altranais or the Medical Council, except in cases of gross negligence.

She also contended that many hospitals lack internal disciplinary procedures and even if they do, the guidelines are often poorly defined as a result of inadequate governance and clinical management structures.

There is a lack of leadership coming from the Medical Council on the issue, Ms O’Driscoll alleged. She also said that there needed to be better communication of changes in legislation to doctors and hospitals, saying that it takes a long time for Supreme Court decisions to become well known within the medical community.

For instance, she said that many hospitals did not know the age of consent to treatment had been lowered from 18 to 16 until many years afterwards. “This is another issue arising from poor leadership and needs to be addressed,” Ms O’Driscoll claimed.