

Chapter 94

REFERENCES

1. Calvi JV, Coleman SE. *American Law and Legal Systems*. Englewood Cliffs, NJ: Prentice Hall; 1989.
2. Kiuchi A, Matsumura Y, Makino Y, Kyakuno M, Ehara K. Analysis of lawsuits on malpractice related to spinal anesthesia in Japan—change in the causes of anesthetic malpractice related to judicial precedents. *Leg Med (Tokyo)*. 2009;(11 Suppl 1): S370-371.
3. Martinez MA, Ballesteros S, Segura LJ, Garcia M. Reporting a fatality during tumescent liposuction. *Forensic Sci Int*. 2008; 178(1):e11-16.
4. Furrow BR. *Health Law*. St. Paul, MN: West; 1995.
5. Anesthesiologists. American Society of Anesthesiologists Web site. www.asahq.org/Pubs/sgstoc.htm. Accessed June 15, 2010.
6. Liang BA, Fermani K. “Standards” of anesthesia: law and ASA guidelines. *J Clin Anesth*. 2008;20(5):393-396.
7. Sharma BR. Death during or following surgical procedure and the allegation of medical negligence: an overview. *J Forensic Leg Med*. 2007;14(6):311-317.
8. Posner KL, Caplan RA, Cheney FW. Variation in expert opinion in medical malpractice review. *Anesthesiology*. 1996;85(5): 1049-1054.
9. Liang BA. Hidden but not forgotten: anesthesia responsibilities for intravenous catheter management. *J Clin Anesth*. 2008;20(8):622-623.
10. Lee L, Roth S, Posner K, et al. The American Society of Anesthesiologists Postoperative Visual Loss Registry: analysis of 93 spine surgery cases with postoperative visual loss. *Anesthesiology*. 2006;105(4):652.
11. Sayre K. Malpractice lawsuit against anesthesiologists results in \$20M Verdict. 2009; <http://www.aboutlawsuits.com/malpractice-lawsuit-against-anesthesiologists-7464/>. Accessed June 15, 2010.
12. Posner K, Domino K, Polissar N, et al. Trends in anesthesia malpractice lawsuit payments. *Anesthesiology*. 2004;101:A1405.
13. Kohn LT, Corrigan J, Donaldson MS. *To Err Is Human: Building a Safer Health System*. Washington, DC: National Academy Press; 2000.
14. Morray JP, Geiduschek JM, Caplan RA, Posner KL, Gild WM, Cheney FW. A comparison of pediatric and adult anesthesia closed malpractice claims. *Anesthesiology*. 1993;78(3): 461-467.
15. Hoffman GM. Outcomes of pediatric anesthesia. *Semin Pediatr Surg*. 2008;17(2):141-151.
16. Hawkins JL, Koonin LM, Palmer SK, Gibbs CP. Anesthesia-related deaths during obstetric delivery in the United States, 1979-1990. *Anesthesiology*. 1997;86(2):277-284.
17. Chadwick HS, Posner K, Caplan RA, Ward RJ, Cheney FW. A comparison of obstetric and nonobstetric anesthesia malpractice claims. *Anesthesiology*. 1991;74(2):242-249.
18. Davies JM, Posner KL, Lee LA, Cheney FW, Domino KB. Liability associated with obstetric anesthesia: a closed claims analysis. *Anesthesiology*. 2009;110(1):131-139.
19. Cook TM, Bland L, Mihai R, Scott S. Litigation related to anaesthesia: an analysis of claims against the NHS in England 1995-2007. *Anaesthesia*. 2009;64(7):706-718.
20. Gaba DM. Anaesthesiology as a model for patient safety in health care. *BMJ*. 2000;320(7237):785-788.
21. Robbertze R, Posner KL, Domino KB. Closed claims review of anesthesia for procedures outside the operating room. *Curr Opin Anaesthesiol*. 2006;19(4):436-442.
22. Metzner J, Posner K, Domino K. The risk and safety of anesthesia at remote locations: the US closed claims analysis. *Curr Opin Anesthesiol*. 2009;22(4):502.
23. Apfelbaum JL, Klock PA Jr. Clarification of anesthesia standards and guidelines. *Aesthet Surg J*. 2001;21(6):573-575.
24. Ramamoorthy C, Haberkern CM, Bhananker SM, et al. Anesthesia-related cardiac arrest in children with heart disease: data from the Pediatric Perioperative Cardiac Arrest (POCA) registry. *Anesth Analg*. 2010;110(5):1376-1382.
25. Posner KL, Geiduschek J, Haberkern CM, Ramamoorthy C, Hackel A, Morray JP. Unexpected cardiac arrest among children during surgery, a North American registry to elucidate the incidence and causes of anesthesia related cardiac arrest. *Qual Saf Health Care*. 2002;11(3):252-257.
26. Fish RM, Ehrhardt ME, Fish B. *Malpractice: Managing Your Defense*. 2nd ed. Oradell, NJ: Medical Economics Books; 1990.
27. Belli MM, Carlova J. *Belli for your Malpractice Defense*. 2nd ed. Oradell, NJ: Medical Economics Books; 1989.
28. Kuczkowski KM. Medico-legal issues in obstetric anesthesia: what does an obstetrician need to know? *Arch Gynecol Obstet*. 2008;278(6):503-505.
29. Gallagher TH, Studdert D, Levinson W. Disclosing harmful medical errors to patients. *N Engl J Med*. 2007;356(26): 2713-2719.
30. Gallagher TH, Levinson W. Disclosing harmful medical errors to patients: a time for professional action. *Arch Intern Med*. 2005;165(16):1819-1824.

31. Jacobs HB, Bennett CA. *The Spectre of Malpractice*. New York, NY: Nationwide Press; 1983.
32. Rosner F, Berger JT, Kark P, Potash J, Bennett AJ. Disclosure and prevention of medical errors. Committee on Bioethical Issues of the Medical Society of the State of New York. *Arch Intern Med*. 2000;160(14):2089-2092.
33. Litman R. Physician Communication Skills Decrease Malpractice Claims.
34. Gallagher TH, Waterman AD, Ebers AG, Fraser VJ, Levinson W. Patients' and physicians' attitudes regarding the disclosure of medical errors. *JAMA*. 2003;289(8):1001-1007.
35. Newman A. Providing apology in medical error situations: positive or negative effect. American College of Legal Medicine 46th Annual Conference. *Am Coll Legal Med*. 2006:594-600.
36. Bacon AK, Morris RW, Runciman WB, Currie M. Crisis management during anaesthesia: recovering from a crisis. *Qual Saf Health Care*. 2005;14(3):e25.
37. Brennan TA, Horwitz RI, Duffy FD, Cassel CK, Goode LD, Lipner RS. The role of physician specialty board certification status in the quality movement. *JAMA*. 2004;292(9):1038-1043.
38. Silber JH, Kennedy SK, Even-Shoshan O, et al. Anesthesiologist board certification and patient outcomes. *Anesthesiology*. 2002;96(5):1044-1052.
39. Liang BA, Roy RC. Can demonstrating board examination failure be proof of anesthesia negligence? *J Clin Anesth*. 2004;16(8):576-578.
40. Levin PD, Sprung CL. Withdrawing and withholding life-sustaining therapies are not the same. *Crit Care*. 2005;9(3):230-232.
41. Walker R. Penalty against Pinnacle Anesthesia Consultants grows to \$8.6 million. *Pegasus News*, April 16, 2007.
42. Lynk WJ. Restraint of trade through hospital exclusive contracts: an economic appraisal of the legal theory. *J Health Polit Policy Law*. 1984;9(2):269-279.
43. Kristeller AR. Economic credentialing and exclusive contracts. *N J Med*. 1997;94(5):63-65.
44. Foster H. Exclusive arrangements between hospitals and physicians: antitrust's next frontier in health. *Louis ULJ* 1981; 26:535.
45. Drexel W. Antitrust implications of the denial of hospital staff privileges. *U Miami L Rev*. 1981;36:207.
46. Saylor LJ. Are you violating antitrust laws? *Mich Hosp*. 1992;28(1):29-33.
47. Team ASoACoOAC. *Statement on the Anesthesia Care Team*. Chicago, IL: American Society of Anesthesiologists; 2006.
48. Orkin F. The geographic distribution of anesthesiologists during rapid growth in their supply. *Anesthesiology*. 1994; 81(3A):A1296.
49. Alves SL. A study of occupational stress, scope of practice, and collaboration in nurse anesthetists practicing in anesthesia care team settings. *AANA J*. 2005;73(6):443-452.
50. Penn M, Ruthman J. Assessing the degree of involvement of certified registered nurse anesthetists in airway management and trauma stabilization in rural hospitals. *AANA J*. 2005;73(3):191-196.
51. Services DoHaH. Medicare and medicaid programs: hospital conditions of participation: anesthesia services. In: Services CfMaM, ed. 2001:66;56762-56769. Washington, DC: Federal Register; 2001.
52. Egger Halbeis CB, Epstein RH. The value proposition of anesthesia information management systems. *Anesthesiol Clin*. 2008;26(4):665-679, vi.
53. Feldman JM. Do anesthesia information systems increase malpractice exposure? Results of a survey. *Anesth Analg*. 2004;99(3):840-843; table of contents.
54. Annas GJ. HIPAA regulations—a new era of medical-record privacy? *N Engl J Med*. 2003;348(15):1486-1490.
55. Feld AD. The Health Insurance Portability and Accountability Act (HIPAA): its broad effect on practice. *Am J Gastroenterol*. 2005;100(7):1440-1443.
56. Moskop JC, Marco CA, Larkin GL, Geiderman JM, Derse AR. From Hippocrates to HIPAA: privacy and confidentiality in emergency medicine—Part I: conceptual, moral, and legal foundations. *Ann Emerg Med*. 2005;45(1):53-59.
57. Moskop JC, Marco CA, Larkin GL, Geiderman JM, Derse AR. From Hippocrates to HIPAA: privacy and confidentiality in emergency medicine—Part II: challenges in the emergency department. *Ann Emerg Med*. 2005;45(1):60-67.
58. 42 USC, D-1.
59. Miller J. Greatest HIPAA risk is private lawsuits. *Managed Healthcare Executive*, November 1, 2007.
60. Wilken B TV, Areheart B. The National Practitioner Data Bank. *American College of Legal Medicine 46th Annual Conference*: American College of Legal Medicine; 2006.
61. Jones JW, McCullough LB, Richman BW. Informed consent: it's not just signing a form. *Thorac Surg Clin*. 2005;15(4):451-460, v.
62. Furrow BR, Greaney TL, Johnson SH, Stoltzfus Jost T, Schwartz RL. *Health Law*. St. Paul, MN: West; 1995.
63. O'Leary C. Informed consent—principles and practice. *ASA Newsletter*, 2010.
64. White SM. Consent for anaesthesia. *J Med Ethics*. 2004;30(3):286-290.
65. Benson KT. The Jehovah's Witness patient: considerations for the anesthesiologist. *Anesth Analg*. 1989;69(5):647-656.
66. Dixon JL, Smalley MG. Jehovah's witnesses. The surgical/ethical challenge. *JAMA*. 1981;246(21):2471-2472.
67. Miller GD, Key CM. Health care decisions act—problems with consents, surrogacy, and end-of-life choices addressed by the new Tennessee Health Care Decisions Act. *Tenn Med*. 2004;97(10):448-451.
68. Rocker GM, Curtis JR. Caring for the dying in the intensive care unit: in search of clarity. *JAMA*. 2003;290(6):820-822.
69. Standards for cardiopulmonary resuscitation (CPR) and emergency cardiac care (ECC). II. Basic life support. *JAMA*. 1974;227(7):Suppl:841-851.
70. Standards for cardiopulmonary resuscitation (CPR) and emergency cardiac care (ECC). V. Medicolegal considerations and recommendations. *JAMA*. 1974;227(7):Suppl:864-868.
71. Standards for cardiopulmonary resuscitation (CPR) and emergency cardiac care (ECC). IV. Life support units. *JAMA*. 1974;227(7):Suppl:860-863.
72. Standards for cardiopulmonary resuscitation (CPR) and emergency cardiac care (ECC). 3. Advanced life support. *JAMA*. 1974;227(7):Suppl:852-860.
73. Standards for cardiopulmonary resuscitation (CPR) and emergency cardiac care (ECC). I. Introduction. *JAMA*. 1974; 227(7):Suppl:837-840.
74. Directives A, Wills L, Self-Determination P, Makers S. Part 2: Ethical Issues. *Circulation*. 2005;112(24 Suppl).

75. Rabkin MT, Gillerman G, Rice NR. Orders not to resuscitate. *N Engl J Med*. 1976;295(7):364-366.
76. Fried C. Editorial: Terminating life support: out of the closet. *N Engl J Med*. 1976;295(7):390-391.
77. American Medical Association. *Code of medical ethics 2.22 Do-Not-Resuscitate Orders*. Chicago, IL: AMA Press; 2002-2003.
78. Walker RM. DNR in the OR. Resuscitation as an operative risk. *JAMA*. 1991;266(17):2407-2412.
79. Truog RD, Waisel DB, Burns JP. DNR in the OR: a goal-directed approach. *Anesthesiology*. 1999;90(1):289-295.
80. Fallat ME, Deshpande JK. Do-not-resuscitate orders for pediatric patients who require anesthesia and surgery. *Pediatrics*. 2004;114(6):1686-1692.
81. American Society of Anesthesiologists. *Ethical Guidelines for the Anesthesia Care of Patients with Do-Not-Resuscitate Orders or Other Directives that Limit Care*. 1999.
82. Ethics ASoACoO. *Ethical Guidelines for the Anesthesia Care of Patients with Do-Not-Resuscitate Orders or Other Directives That Limit Treatment*. Chicago, IL: American Society of Anesthesiologists; 2008.
83. American Medical Association. *Code of medical ethics 2.20 Withholding or Withdrawing Life-Sustaining Medical Treatment*. 2002-2003.
84. Trotter G. Mediating disputes about medical futility. *Camb Q Healthc Ethics*. 1999;8(4):527-537.
85. Kasman DL. When is medical treatment futile? A guide for students, residents, and physicians. *J Gen Intern Med*. 2004;19(10):1053-1056.
86. Moseley KL, Silveira MJ, Goold SD. Futility in evolution. *Clin Geriatr Med*. 2005;21(1):211-222, x.
87. Cantor MD, Braddock CH, 3rd, Derse AR, et al. Do-not-resuscitate orders and medical futility. *Arch Intern Med*. 2003;163(22):2689-2694.
88. Fine RL, Mayo TW. Resolution of futility by due process: early experience with the Texas Advance Directives Act. *Ann Intern Med*. 2003;138(9):743-746.
89. Gelb AW, Robertson KM. Anaesthetic management of the brain dead for organ donation. *Can J Anaesth*. 1990;37(7):806-812.
90. Bell MD. Non-heart beating organ donation: old procurement strategy—new ethical problems. *J Med Ethics*. 2003;29(3):176-181.
91. Robertson JA. The dead donor rule. *Hastings Cent Rep*. 1999;29(6):6-14.
92. Van Norman GA. Another matter of life and death: what every anesthesiologist should know about the ethical, legal, and policy implications of the non-heart-beating cadaver organ donor. *Anesthesiology*. 2003;98(3):763-773.
93. Spencer GE. Children's competency to consent: an ethical dilemma. *J Child Health Care*. 2000;4(3):117-122.
94. Walker H. The child who refuses to undergo anesthesia and surgery—a case scenario-based discussion of the ethical and legal issues. *Paediatr Anaesth*. 2009;19(10):1017-1021.
95. Informed consent, parental permission, and assent in pediatric practice. Committee on Bioethics, American Academy of Pediatrics. *Pediatrics*. 1995;95(2):314-317.
96. Eichelberger MR, Randolph JG. Pediatric trauma: an algorithm for diagnosis and therapy. *J Trauma*. 1983;23(2):91-97.
97. Kempe CH, Silverman FN, Steele BF, Droegemueller W, Silver HK. The battered-child syndrome. *JAMA*. 1962;181:17-24.
98. McNeese MC, Hebler JR. The abused child: a clinical approach to identification and management. *Clin Symp*. 1977;29(5):1-36.
99. Kempe CH. Sexual abuse, another hidden pediatric problem: the 1977 C. Anderson Aldrich lecture. *Pediatrics*. 1978;62(3):382-389.