

Lawyers Give Tips to Limit Malpractice Exposure

BY SUSAN BIRK
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CHICAGO — Awareness of medical malpractice lawsuits is the first step toward protecting against them, according to an attorney familiar with medical litigation.

Even outstanding clinical skills do not guarantee protection from litigation, Patricia S. Kocour, J.D., said at the annual meeting of the Society of Obstetric Anesthesia and Perinatology. This means that

obstetric anesthesiologists, and all physicians for that matter, need to develop their legal acumen. "I represent a lot of good doctors, and I also have a lot of cases, which tells you that becoming a good doctor doesn't prevent malpractice [lawsuits]," said Ms. Kocour, an attorney with Swanson, Martin, & Bell LLP, Chicago, who participated in a panel on legal issues in obstetric anesthesia.

Copanelist William B. Bower, J.D., echoed Ms. Kocour's assertion. "Simply by

standing in the labor-and-delivery suite, you've put yourself in high stakes," said Mr. Bower, who is executive director of claims and litigation at Northwestern Memorial Hospital, Chicago.

He advocated robust incident reporting and ongoing quality management aimed at reducing preventable adverse events as one of the most effective approaches for decreasing liability exposure.

Ms. Kocour said that physicians can lessen their legal exposure by focusing on

the delivery of medical care consistent with or better than that of other physicians in their field, educating their patients, and documenting everything they do.

Patients sue physicians for real or perceived mismanagement, undesirable outcomes, unexpected outcomes, real or perceived inability to get answers to questions, and the need for financial resources to manage catastrophic outcomes.

To ward off litigation, she advised doctors to make sure patients understand them and ask if all of their questions have been answered; talk to patients at eye level and sit next to them when explaining a procedure or providing information about care; and make sure patients know of potential adverse outcomes. "Patients who've been informed are less likely to complain later," she said.

Ms. Kocour stressed the importance of open communication and willingness to answer a patient's questions promptly in the event of an undesirable outcome. When patients have trouble getting answers from their physicians, they are more likely to go to an attorney to get the answers they need.

She also emphasized the value of good documentation. "My best tool is the medical record," she said. "If the record documents who was there, what happened, and when, it makes my job much easier."

Mr. Bower highlighted the importance of disclosure, transparency, and expectation management in the event of an adverse outcome.

Prevention is key in this regard, he said. "By the time it comes to [a lawyer], you're trying to limit exposure after the horse is out of the barn."

A physician's willingness to meet with a patient and spend time explaining everything that happened can go a long way toward preventing litigation, he said.

Ms. Kocour touched on ways physicians may become involved in litigation other than as defendants. She encouraged physicians to serve as expert witnesses if given the opportunity. "We can't defend these cases without experts," she said.

Involvement as a fact witness generally means the physician's care is not an issue in the lawsuit, she said. However, physicians who are asked to serve in this capacity should take their involvement seriously and contact the lawyer at their institutions to protect themselves against a future lawsuit. ■



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Frozen Egg Bank Has Donor Web Site

Frozen Egg Bank, an egg donor center based in Orange County, Calif., has launched a Web site to promote its registry of egg donors. Visitors can request a username and password via the site to get more information about donors and to view their photos.

The site also provides information for women who want to freeze their own eggs for future use. For more information, contact the Frozen Egg Bank Inc. at www.eggfreezing.com. ■