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Are Obstetricians Sacrosanct

Are obstetricians to be considered sacrosanct? If yes, then we should make all professionals and non-professionals sacrosanct.

In my family's experiences with the medical profession we have always found them both responsive and sensitive to our needs. Unfortunately, there is always a small minority of doctors (as in any profession) who are unresponsive, unsensitive and incompetent. When we discuss medical malpractice, this minority is to whom we refer.

I take issue with the published article by Dr. Joseph B. Marshall (October 18, 1989 U.S.A.). He claims he left his profession of obstetrics because two patients in 1976 wanted 100% guarantees of "... delivery of a healthy baby." Then when Dr. Marshall said he, "...can't walk on water," they left as his patients. What rubbish. He concludes that unless society finds an answer to medical malpractice, "... the poor, isolated and the rural people ... won't have proper medical care." What trite reasoning.

As the editor in his column (10/18/89) concedes, laws "... must protect consumers from bad doctors who practice poor medicine. It must punish doctors for their mistakes and compensate patients who have been harmed."

What Dr. Marshall proposes is the elimination of medical malpractice or commonly called "let the taxpayers foot the bill for my mistakes."

In 1985 the laws covering medical malpractice were amended in New York State and reduced the court filings by 56%. In 1985 2,573 cases were placed on the calendar for trial. By 1988 that figure dropped to 1642.

What is all the commotion about? What is the debate that has been going on? What is the law of the State of New York that is so terrible that is making doctors leave their profession of obstetrics and afraid to treat patients because of potential malpractice suits?

The following is the law of the State of New York that has been in effect for over 25 years. As a matter of fact what is about to be quoted is the law of instructions that a judge gives to the jury at the conclusion of a case.

A doctor's responsibilities are the same whether or not he is paid for his services. By undertaking to perform a medical service, he does not-nor does the law require him to-guarantee a good result. He is liable only for negligence.

A doctor who renders a medical service is obligated to have that degree of knowledge and ability that is expected of doctors or specialists who do that particular operation in the community where he practices.

The law recognizes that there are differences in the abilities of doctors, just as there are in the abilities of people engaged in other activities. To practice his profession a doctor is not required to be possessed of the extraordinary knowledge and ability that belongs to a few men of rare endowments but he is required to keep abreast of the times and to practice in accordance with the approved methods and means of treatment in general use. The standard to which he is held is measured by the degree of knowledge and ability of the average doctor in good standing in the community where he practices.

In performing a medical service, the doctor is obligated to use his best judgment and to use reasonable care in the exercise of his knowledge and ability. The rule requiring him to use his best judgment does not make him liable for a mere error of judgment, provided he does what he thinks is best after careful examination. The rule of reasonable care does not require the exercise of the highest possible degree of care; it requires only that he exercise that degree of care that a reasonably prudent doctor would exercise under the same circumstances.

If a patient should sustain an injury while undergoing medical care and that injury results from the doctor's lack of knowledge or ability, or from his failure to exercise reasonable care or to use his best judgment, then he is responsible for the injuries that are the result of his acts.

Before a publisher prints an article is he not concerned with the law of libel? Before a policeman pulls his gun to simply defend the public or himself, is he not concerned with the law of justifiable homicide?

All professional and non professional people are held up to a standard in their respective communities. And if they drop below that accepted standard and cause harm to others they must answer for their acts.

Why should an obstetrician be sacrosanct?

According to a Time magazine article "Sick and Tired" (July 31, 1989) page 50, seventy-two percent of the public believed doctors kept up with the latest medical knowledge, however, 45% of the people felt doctors did a poor job in explaining to patients what they were doing insofar as treatment is concerned. Could it be that the reason for the majority of these malpractice suits against doctors is that the doctors have lost their bedside manner and don't truly communicate or take the necessary time needed to explain fully, details to the patient?

Does the public realize that when an obstetrician commits an act of negligence and causes brain damage in that infant that the cost of medical care over that child's statistical seventy-two years of life will cost millions of dollars? Would a verdict against this obstetrician to pay for this baby's future medical costs, future suffering, future care, unreasonable? No! not in light of the fact that the law says that the obstetrician and his insurance company is not obligated to pay monies upon the death of that infant. So, if that brain-damaged infant died before the statistical seventy-second birthday so do the doctor's and insurance company's payments cease.

It is time that professional and non-professional people alike stand up and recognize their individual responsibility to

each other and to members of society and understand that when they do not live up to reasonable standards imposed by society and cause certain individuals of that society, suffering, present and future medical and expenses, they should pay for those losses. If they and their insurance company don't pay, you can rest assured that the burden will fall on the taxpayers.

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