Specialists

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Recommended Citation
Available at: https://scholarship.kentlaw.iit.edu/cklawreview/vol44/iss2/4
decision may not be reached in all cases. There may be a duty to inform the patient of the consequences of a particular procedure if alternative procedures are possible, thus allowing the patient to make a choice. There may also be a duty to inform the patient if the consequences of the proposed procedure to be used are substantially certain to occur. Hence, the duty upon the physician to inform is conditioned on the type of treatment which is necessary, the danger of that treatment and the psychological stability of the patient.

GERALD J. SMOLLER

SPECIALISTS

The standard of care, in most jurisdictions, has been modified to require a greater degree of skill from specialists than ordinary general practitioners. The rationale for imposing this greater duty is that specialists are sought out and greater confidence is placed in them by patients because of the expertise they profess.

Illinois courts, however, have not changed the ordinary standard of care in dealing with specialists. In Schierson v. Walsh, the defendant-physician had claimed to be one of the greatest and most skillful surgeons in the world. The plaintiff, through the State Department of Registration and Education, sought to have the defendant’s license revoked. The medical committee of the Department held the defendant to his assertions of expertise. Thus, his acts of negligence became gross neglect because of the higher standard of care that was imposed on him. This showing of gross malpractice met statutory requirements for license revocation.

On appeal, the Illinois Supreme Court reinstated the defendant’s license. The court, in holding that an imposition of a higher standard of care on the defendant was improper, stated that the test of “reasonable skill . . . such as physicians in good practice ordinarily use and would bring to a similar case in that locality” was “. . . safe for both public and profession.”

1 See, e.g., Worster v. Caylor, 231 Ind. 625, 110 N.E.2d 337 (1953); Rayburn v. Day, 126 Or. 135, 286 Pac. 1002 (1928).
3 Ritchey v. West, 23 Ill. 385 (1860).
4 354 Ill. 40, 187 N.E. 921 (1933).

The section provides that license revocation can be based on a showing of gross malpractice or gross negligence. Ordinary negligence, sufficient to establish a prima facie case of malpractice, would not be adequate.

6 Supra note 4, at 49, 187 N.E. at 927 (1933).
MEDICAL MALPRACTICE IN ILLINOIS

Despite the fact that the above case has never been overruled, the committee drafting the Illinois Pattern Jury Instructions formalized the instruction on the basis of the majority rule that requires a higher standard for the specialist. This is true since the Schierson case involved a license revocation and, therefore, can be distinguished on its facts from a negligence action. Imposition of a higher standard on specialists, in a license revocation hearing, would cause a negligent act or omission to become gross malpractice, thus providing grounds for revocation. Yet, in a malpractice damage suit, it is more equitable to hold the specialist to a higher standard, especially considering increased specialization.

WILLIAM J. JOOST

SCHOOLS OF MEDICINE

The majority of American courts have held that medical practitioners are entitled to be judged according to their individual schools of medicine. However, a school of medicine must have certain recognized tenets and be followed by a respectable minority of the profession.

Illinois recognizes the existence of different medical schools of thought in its Medical Practice Act. For example, chiropractors and osteopaths are entitled to a limited medical practice under the Act. However, no discrimination in the administration of the Act is permitted against any school, system, or method of medical practice.

Despite legislative recognition of methods of treatment, and the strong majority opinion to the contrary, the standard of care is the same for anyone practicing medicine in Illinois, no matter what school is followed. In Bacon v. Walsh, the court stated that the defendant's case had not been prejudiced by failure to show what school of medicine he followed. The

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1 The term "schools of medicine" is used to denote methods or systems of treating human disease as differentiated from the system of medicine practiced by physicians and surgeons. It is not intended to include various techniques used by physicians and surgeons in treating a given ailment.


3 Nelson v. Harrington, 72 Wis. 591, 40 N.W. 228 (1888).


"The provisions of this Act shall not be so construed as to discriminate against any system or method of treating human ailments . . ." 1923, June 30, Laws 1923, p. 436, § 20.

7 Bacon v. Walsh, 184 Ill. App. 377 (1913). Similar provisions to those noted supra notes 5 and 6 were in existence when the case was decided under Medical Practice Act of 1899.

8 Ibid.