

MEDICAL ADVISORS, INC

TECHNICAL NETWORK CONSULTING SERVICE®

EVALUATING HOSPITAL CORPORATE RESPONSIBILITIES IN MALPRACTICE CASES

Hospital Administrator from Florida

Medical malpractice cases require stringent and comprehensive clinical review and attorneys always employ medical experts to review their cases. Often overlooked is the use of a hospital administration expert who can add significantly to the case by evaluating the corporate responsibilities of the hospital involved in the matter.

It is important to utilize a person who has actually worked as a hospital administrator and, indeed, some states require a person actively engaged in the field. While many physicians feel that they have hospital administrative experience, it may not be adequate to evaluate hospital compliance with accreditation standards, licensure regulations, and administrative policy and procedures. As a person with nearly 40 years of hospital and healthcare administrative experience, I review cases for both defense and plaintiff attorneys and have found this to be of value to all parties involved.

The hospital or healthcare organization always has an interest in every malpractice case as patient safety and the quality of care are central to their mission. Additionally, the discovery of systemic problems, adverse publicity, potential financial loss, and poor staff morale are extremely important to the hospital's leadership. The attorney can best determine the hospital's corporate responsibilities through engaging an experienced healthcare executive to evaluate the case.

The administrative expert relies on the physician experts to determine if clinical errors were made and utilizes this information to perform a review of hospital policies and licensure and accreditation standards. The hospital administrative expert will review the appropriate Joint Commission Hospital Accreditation Standards manual to evaluate the degree of compliance of the hospital with the standards. For example, in a case where a wrong site surgery took place, I was able to determine that the hospital did not follow the required Joint Commission standards regarding the identification of the patient and the surgery site, nor did they perform the mandatory time-out procedure prior to starting the operation. Hospital employees could have and should have made certain that the surgeon followed the

correct procedures. Clearly, in this case, there were indications of corporate negligence and the hospital had some responsibility in the case.

Another important review performed by the administrative expert is to look at hospital policies and procedures. This evaluation includes determining if the hospital has the required up-to-date policies in place, and then ascertaining if they actually followed them. A case I recently reviewed involved policies for the handling of critical test results and it was readily apparent that the hospital had the required policies in place and that they did follow them when a radiology examination showed a life threatening situation for an emergency department patient. In this case, the hospital followed the accreditation standards and had no corporate liability in the matter.

I am frequently asked to review the credentialing procedures of hospitals to evaluate if they complied with the appropriate standards. This is another often overlooked area of investigation as the hospital must comply with very definitive standards for initial credentialing and re-credentialing physicians and other licensed independent practitioners. It is important to evaluate if the correct procedures were carefully followed, particularly as the standards have been changed in recent years and focus more on an ongoing review process rather than the familiar bi-annual review.

There are numerous experts who are more than willing to provide testimony for medical malpractice and personal injury litigation cases. Finding the right one is crucial to the strength of your particular case.

Since 1983, Medical Advisors has assisted in the selection of expert witnesses in several thousand cases. Working with plaintiff and defense bar, we have provided medical opinions and testimony which have resulted in competent preparation and in-court support for cases involving medical malpractice, hospital negligence, personal injury, workers' compensation and product liability.

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Another area of focus is that of new procedures and new equipment. Did the hospital formally approve the new procedure or the new piece of instrumentation used in the procedure? Were hospital staff members adequately trained in the new procedure? Did the materials management department purchase the new equipment per their policy or did the physician or surgeon bring it in – something I have seen more than most would expect? Have the surgeon's privileges been expanded to include this new procedure? Many hospitals do this extremely well and others do not. It is important to review this area thoroughly.

Reviewing corporate responsibilities should take place in nearly all medical malpractice cases and can benefit patient care, as well as providing clarity as to the hospital's compliance with their responsibilities. For many attorneys, the Joint Commission standards are unfamiliar and an administrative expert can assist them in navigating these voluminous and constantly changing standards.

I would also note that a hospital administrative expert can often assist in developing the strategy of the case through explaining the inner workings of the hospital, the internal politics of medical staff relationships, and the rules regarding the use of independent contractors just to name a few. It is usually best to bring the administrative expert into the case as early as possible to help in formulating discovery requests and also in the specific questions to ask hospital representatives in the deposition process.

Much time, effort, and expense can be avoided by utilizing a hospital administrative expert to perform an early review of the case. Both defense and plaintiff attorneys can benefit from this review and assist them in their efforts to resolve the case successfully.

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