

Doctors' backlash?

Malpractice countersuit dead but not silent

Are attorneys accountable for their actions on behalf of their clients?

At issue is a 1975 countersuit by Bloomfield Hills urologist Dr. Seymour Friedman, who was sued for medical malpractice in the 1971 death of Wayne County resident Leona Serafin.

The suit was thrown out of Wayne County Circuit Court because attorneys Peter Dozore of Troy and Robert H. Golden of Southfield could not produce enough evidence supporting the malpractice claim to put the matter to a jury.

Dr. Friedman, in turn, sued Dozore and Golden. Dr. Friedman's suit alleged malicious prosecution, negligence and abuse of process.

The latter two charges were dismissed by the Michigan Court of Appeals.

THE KEY ISSUE is malicious prosecution, which Black's Law Dictionary defines as "action begun in malice without probable cause to believe the charge can be sustained."

In layman's terms, said a University of Detroit law professor, "it means someone wrongfully dragged into the

courts can drag into the courts the persons who wrongfully dragged them into the courts in the first place."

"Dr. Friedman and his attorney, Charles F. Glass, maintain that Dozore and Golden ignored medical opinions that malpractice was not the cause of Mrs. Serafin's death and went ahead with filing the suit.

Golden said persons consulted for medical advice did not rule out malpractice. He, however, refused to name persons he and Dozore consulted.

He said Dr. Friedman performed a kidney stone operation on Mrs. Serafin when she was in no condition to undergo "major" surgery. He said the operation was elective and could have been put off. Mrs. Serafin died during the operation.

"Any attorney in the United States would have taken that case and would have gone to trial with it," Golden said. "If the same one came through my doors now, I'd take it all over again," Golden added.

DR. FRIEDMAN'S countersuit, according to some lawyers and doctors in the metropolitan area, is an example of the latest attempt by the

medical community to discourage medical malpractice suits.

Monitoring Dr. Friedman's legal actions against Dozore and Golden is the Physicians Crisis Committee (PCC), a group of about 1,000 Michigan doctors who drew public attention during the "medical malpractice crisis" of 1974, when countless malpractice suits were filed and malpractice insurance skyrocketed.

"It should be noted that we're not trying to prevent legitimate malpractice cases against doctors," said Dr. W. Peter McCabe, PCC co-chairman. "We are attempting to establish the fact that lawyers should be held accountable for actions they take against a physician, or anyone else, for that matter.

"The focal point of our concern is the sham or frivolous lawsuit—the

case that's filed without foundation or merit. We believe that a lawyer has the responsibility to properly investigate and assess the medical and legal facts and issues before filing a case," Dr. McCabe said.

According to the PCC, the Friedman case has become noteworthy on the basis of a number of factors, including:

•Attorneys Dozore and Golden had received five separate medical opinions that medical malpractice was not involved;

•They conferred with three other persons of their own choosing who agreed that there was no medical malpractice;

Despite the opinions, they pressed on with the suit.

Golden refused to comment on any of the PCC findings.

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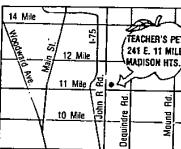
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