

WEISS



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Think being sued for malpractice is bad? It's nothing compared to being charged criminally for the same set of facts.

In February 2023, a 56 year old patient, Bart Writer, went in for cataract surgery at InSight Surgery Center in Lone Tree, Colorado.

He didn't come out. Well, alive, that is.

Mr. Writer's wife filed a malpractice suit against the surgeon, ophthalmologist C. Starck Johnson, M.D., and anesthesiologist Michael Urban, M.D.,

The suit alleged that the physicians failed to notice a change in Mr. Writer's vital signs because a monitor had been turned off.

Whether or not the monitor was turned off, the point of the allegation was that the physicians were distracted from ensuring the patient's safety and did not notice the low blood oxygen levels which led to Mr. Writer's death from cardiac arrest.

As Drs. Johnson and Urban apparently admitted, they were playing a game of "music bingo" in the O.R., a game in which snippets of songs are played while the contestants (ugh, the doctors) scrambled to match the names of the performers to the letters of the word "bingo".

Both Drs. Johnson and Urban settled the malpractice claims against them. I assume that neither admitted liability. However, the surgeon did blame the anesthesiologist for the failure to monitor Mr. Writer and ensure he was safe.

Dr. Urban has now been charged by a grand jury with manslaughter and criminally negligent homicide.

Of course, it's yet to be seen whether the case will proceed to trial and, if so, whether he will be found guilty. As of now, Dr. Urban is presumed innocent.

That said, the sad set of circumstances presents significant lessons both for physicians and for medical group leaders.

As to group leaders, what policies do you have in effect, regardless of the setting, to prevent what I'd call "distracted doctoring"? What education and training does the group provide to its physicians and, as appropriate, other personnel?

It's entirely feasible that, given a bad set of facts, for example, that some physician in the group is known to habitually engage in activity that causes him or her to be distracted during the course of patient care, that the group itself could be liable for its own separate negligence, not simply vicariously liable for the physician's conduct, or even separately criminally charged.

Carefully investigate the terms of your agreements with physicians. Carefully craft policies and procedures, monitor behavior, and take corrective action. Carefully question the extent of insurance coverage to at least understand what you're not insured for and how much risk you might be taking.

Ultimately, if someone is exposing your group to outsize liability, you need to question whether the relationship should end, before the relationship ends a patient, the physician, and perhaps the group itself.



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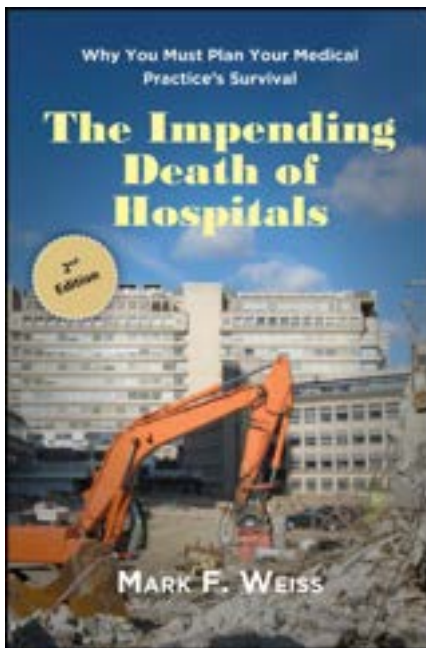


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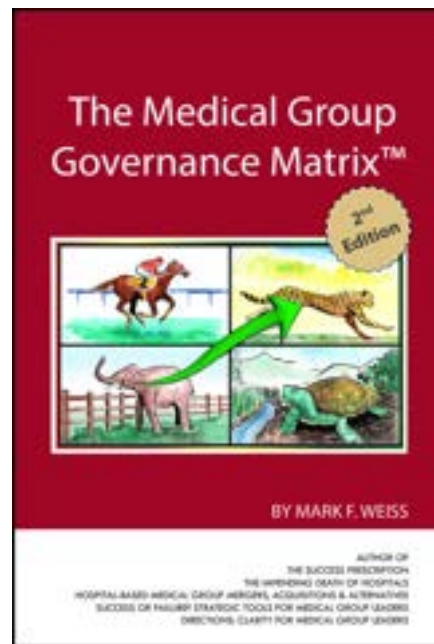
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