LEGAL EASE

MEDICAL NEGLIGENCE & THE LOCALITY RULE — "That's how medicine is practiced here."

By Jeanine Freeman, JD

Iowa ranks among the highest (6th) in quality care despite holding one of the worse physician-population ratios (49th) in this nation. Doctors make a difference.

Principles of medical negligence most frequently are established through case law, primarily decisions of the Iowa Supreme Court. Such case law holds physicians to that degree of skill, care, and learning ordinarily possessed and exercised by other physicians in similar circumstances. But what about location? Can a doctor defend against a claim of negligence by showing, for instance, that this is how medicine is practiced here?

At one time, medical negligence jurisprudence evaluated medical standards of care according to how medicine was practiced in the locality where the purported negligence occurred. In 1970, the Iowa Supreme Court rejected the locality rule for hospitals. "It no longer is justifiable, if indeed it ever was, to limit a hospital's liability to that degree of care which is customarily practiced in its own community." The correct standard of care to which hospitals should be held is that which obtains in hospitals generally under similar circumstances. Customs and practices followed in a particular community and others like it is but one element of consideration in determining "similar circumstances."

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The Court again looked at the locality rule in a 2004 case involving emergency medical care in rural Iowa. In that case, the jury returned a verdict for the doctor, specifically finding that the physician was not negligent and the Supreme Court affirmed. The central issue in the case focused on medical protocol driven by resource realities.

The facts set forth by the court involved a woman in the 33rd week of pregnancy who came to the hospital with significant bleeding. The physician on-call suspected placental abruption, a medical condition the physician knew could compromise the infant's oxygen supply if it progressed, thereby requiring a C-section within approximately 15 minutes to avoid permanent damage to the infant. The physician, who did not perform C-sections, stabilized the patient, continued to monitor both the mother and baby, arranged for her transfer to a tertiary facility specializing in high risk deliveries, and put necessary surgical personnel on alert. Unfortunately, the baby's heart rate dropped precipitously. The surgical team was assembled, the baby was delivered 30 minutes later, transferred to the tertiary care center, and died the next evening.

The parents sued for negligence, claiming the physician should have called the surgical team to the hospital on stand-by in case delivery was needed. The physician testified that in rural Iowa communities like this one, surgical teams are not called to the hospital until it is certain that surgery is needed. Defense experts confirmed, testifying that assembling a stand-by surgical team at the hospital is not a reasonable option due to limited medical personnel and the many needs those same personnel must be available to meet.

The legal discussion centered on the trial court's instruction to the jury that locality of practice is one circumstance to consider but is not an absolute limit upon the skill required. The Supreme Court upheld the instruction. Consideration of locality as a factor remains valid in Iowa, the Court said. "[T]he facilities, personnel, services, and equipment reasonably available to a physician continue to be circumstances relevant to the appropriateness of the care rendered by the physician to the patient." The lesson may be this: Doctors are held to uniform standards of competency and care but resource limitations are a reality and affect processes and protocol to best meet overall patient needs.