CRNAs and the Surgeon’s Liability

Under Wisconsin law, nurse anesthetists are covered separately by the state-run malpractice fund, the Injured Patients and Families Compensation Fund (see 655.001(9)). That is, all nurse anesthetists practicing in Wisconsin must (mandatory) maintain coverage by the Injured Patients and Families Compensation Fund, just as is required for all physicians.

Wisconsin does not have a “captain of the ship” doctrine when providers such as nurse anesthetists provide care to patients who are receiving related care from a physician. The Wisconsin Supreme Court expressly noted that the doctrine is not recognized in our state. As such, a physician is not automatically responsible for the acts of other health care providers who provide care to a common patient. Rather, important is the degree of supervision and control the physician exercises over the care provided by the nurse anesthetist in a particular circumstance.

It should also be noted that a physician who collaborates with an Advanced Practice Nurse Prescriber (APNP) is not automatically or necessarily liable for the acts of the APNP. Recall from our earlier discussion of collaboration and Administrative Rule N 8, the type of collaboration involving nurse anesthetists recognizes that each health care professional is contributing their “respective area of expertise”. Therefore the collaboration provision for nurse anesthetists and other Wisconsin APNPs recognizes the particular area of expertise of both the physician and the nurse anesthetist.

For those nurse anesthetists who are not practicing independently – those who are supervised or directed – there may be physician responsibility depending on the degree of physician direction and control that occurred or should have occurred in a particular case. Hence if a physician wishes to not be responsible for the acts of a nurse anesthetist, it could be said to be better to work with a nurse anesthetist who is practicing independently, with collaboration, than to supervise or direct the nurse anesthetist.