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& PRITCHARD P.C.**
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SALVI, SCHOSTOK
& PRITCHARD P.C.
LAW OFFICES

THE SALVI, SCHOSTOK & PRITCHARD

Newsletter

Dedicated to clients, legal professionals and friends of the Firm.

Principal's Corner

By: Michael P. Schostok

JURY STILL OUT ON ELECTRONIC MEDICAL RECORDS

A controversy has been brewing over the past few years over whether a conversion from paper to electronic medical records (EMR) will lead to increased patient safety. President Barack Obama recently revealed plans to implement EMR nationwide within five-years arguing that such a plan would be crucial in reducing malpractice settlements and fighting against health care costs. Of the nearly \$800 billion in Obama's planned stimulus package signed into law on February 17, approximately \$20 billion is proposed for EMR adoption. Is this a wise expense?

According to a study published in the November issues of *Archives of Internal Medicine*, early opinion is that EMR may reduce malpractice claims. Harvard Medical School researchers found a slightly smaller percentage (6.1%) of malpractice settlements were realized for physicians who used EMR compared to those who did not (10.8%). Researchers believe that EMR decreases malpractice claims because it offers easier

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THE TOP STORY

Family Wins Appeal - Will Receive Over \$9 Million \$7.5 Million Verdict Affirmed by Appellate and Supreme Courts

After waiting nearly three years for their case to be resolved on appeal, a Wildwood (IL) family has won their case and will receive over \$9 million. The case garnered media attention in late 1999 when a 12-year-old boy died on the operating room table at Condell Medical Center during what was considered to be a minor 45-minute surgery.

The Plaintiff was taken to the ER for treatment of a cut on his left arm that he sustained after falling in his home. The boy's parents alleged, through their attorneys, **Michael P. Schostok** and **David G. Pribyl**, that their son developed respiratory difficulties in the operating room after he received an antibiotic that he was allergic to. Those breathing difficulties worsened when the Plaintiff was being awakened following surgery, leading to respiratory arrest and death.

In February 2006, a Lake County jury rendered a verdict on behalf of the Plaintiff in the amount of \$7.5 million. The anesthesiologist appealed the verdict. In June of 2008, the Second District Appellate Court affirmed the verdict of \$7.5 million. In late 2008, the Illinois Supreme Court denied the Defendants final petition to appeal. The \$9 million paid to the Plaintiff's family included interest earned on the judgment during the two and a half year appeal process.

"After nine years waiting for justice to be rendered for the death of their son, the family is relieved to finally have closure to this horrible chapter of their lives," said lead Attorney Michael Schostok.



Michael P. Schostok

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VERDICTS AND SETTLEMENTS

\$6 Million Lake County (IL) Personal Injury Settlement

David G. Pribyl and Michael P. Schostok settled a \$6 million personal injury settlement on behalf of a 43-year-old woman who suffered a brain injury when her bicycle collided into a warning sign placed and maintained by a utility service provider.



David G. Pribyl

The Plaintiff, a clinical pharmacist and mother of two, was riding her bike on the sidewalk in Libertyville, when her handlebars collided with the warning sign, causing her bike to flip. The Plaintiff landed on the concrete with the back of her head hitting first; and was immediately transported by ambulance to the hospital. Doctors later determined that she had suffered a severe traumatic brain injury that caused cerebral edema and brain stem infarction.

“This accident was a terrible tragedy because it could have easily been prevented,” said lead Attorney David Pribyl. “The sign was simply too close to the sidewalk and posed a danger to my client and other persons. If the sign had merely been inspected, it could have been moved just a few feet and the tragedy would have been avoided.”

\$4.1 Million Bureau County (IL) Record Medical Malpractice Settlement

David J. Pritchard secured a \$4.1 million medical malpractice settlement on behalf of a family whose newborn child suffered brain damage as a result of the hospital’s alleged negligence. This is the highest reported medical malpractice settlement in Bureau County.



David J. Pritchard

The infant was born to a mother who had undiagnosed Group Beta Strep colonization (GBS). The Plaintiffs alleged that, prior to discharge from the hospital, the baby developed problems feeding and a high bilirubin count; and that further investigation of these symptoms would have led to the diagnosis and successful treatment of early onset GBS infection.

The Plaintiffs further alleged that, in the middle of the night following discharge, the parents called the hospital because the baby had a fever and was crying uncontrollably. The parents claimed that they were improperly reassured that this was not abnormal for a newborn, and they could see their pediatrician in the morning. Unfortunately, by the next morning the infection had advanced so far into the brain that it could not be successfully treated.

OTHER NOTEWORTHY RESULTS...

\$3,250,000.00 - October 2008; Medical Malpractice; Cook County, IL. (**Donald McGarrah**)

\$3,000,000.00 - September 2008; Medical Malpractice; Sagamon County, IL. (**Michael Schostok**)

\$1,850,000.00 - January 2009; Medical Malpractice; Cook County, IL. (**David Pritchard**)

\$850,000.00 - November 2008; Medical Malpractice; Itasca County, IL. (**David Pribyl**)

\$700,000.00 - February 2009; Nursing Home; Cook County, IL. (**David Pribyl**)

\$465,000.00 - October 2008; Medical Malpractice; Lake County, IL. (**Tara Devine**)

PRINCIPAL'S CORNER *(continued from cover)*

access to a patient's history and improved documentation of care, which lead to fewer errors.

While the early research shows EMR to have a small but positive impact, most medical professionals believe it will take more than a decade to judge the effectiveness of abandoning paper-based records. Currently, less than 20 percent of all physicians have some kind of EMR system in place, and only 5 percent use the most advanced types of EMR technology.

In addition to time, the most conservative projections show many tens of billions of dollars will be needed to fully implement nation wide EMR. Also not addressed in the early research efforts is how accurate EMR database entry will be (notes would still have to be typed in manually or through voice detection software), how e-files would be managed (server vulnerability, storage, misplaced and deleted files, maintenance), or if patient privacy (file security) can be protected—all complicated and important questions.



President Obama signs the \$787 billion stimulus package.

Because the data collected is still quite limited (the Harvard study only focused on 1,140 survey respondents who had malpractice histories that a state database tracked), the jury is still out as to whether EMR will lead to reduced malpractice claims, or, if new issues that surface will actually increase claims. Regardless, one thing is clear: EMR will not eliminate malpractice claims altogether.

The Plaintiffs Bar will be following this issue very carefully in the years ahead and continue our efforts to fight for all victims of medical malpractice.

HIGHLIGHTS

FEBRUARY - David Pritchard served as a judge for the Finals of the National Trial Competition for Law Schools in the Midwest Region.

FEBRUARY - David Pritchard celebrated 10-years with the Firm.

JANUARY - Patrick Salvi II was named to the Illinois State Bar Association Standing Committee on Judicial Evaluations.

JANUARY - The Firm promoted **Matthew Williams** to Partner.

JANUARY - Matthew Williams spoke to local law students about working as a medical malpractice attorney during a Chicago Bar Association event.

JANUARY - Patrick Salvi was a guest speaker for the Spring 2009 Trial Ad Intensive Week at the University of Notre Dame Law School.

OCTOBER - David Pribyl, Joseph Fusz and Marién Zalduondo attended the Senate Democratic Victory Fund in Chicago.

FIRM AGAIN AMONG ELITE

The *Chicago Lawyer* magazine, considered by many to be the top legal publication in Illinois, recently published its annual million-dollar settlement survey. The survey, which lists all types of personal injury, wrongful death, medical malpractice and product liability claims in Illinois with a settlement amount over \$2 million, once again placed Salvi, Schostok & Pritchard among the top law firms in the state.

In addition to securing \$32.75 million in Cook County settlements, **Michael Schostok** achieved the top settlement outside Cook County—a \$15.35 million medical malpractice settlement on behalf of a child who suffered a brain injury during birth.

“To be listed consistently as one of the top law firms in Illinois, year in and year out, is quite an achievement,” said **Patrick Salvi**. “It’s a testament to the entire Firm and to the clients who put their trust in our ability to represent them in these incredibly important legal matters.”



David J. Pritchard, Patrick A. Salvi & Michael P. Schostok