The Author’s Reply

Dr Frankel reports his experience that “undiagnosed and treatable causes of death discovered at autopsy pose significant malpractice risks” and that autopsies cannot protect clinicians in malpractice lawsuit cases. There are complex and important issues here.

First is the issue of whether autopsies ever cause a malpractice lawsuit which was not already going to happen without the autopsy. Dr Frankel implies that this occurs without stating so explicitly. In performing or staffing thousands of autopsies in Pittsburgh, Boston and Los Angeles, I have never seen this happen. I would challenge Dr Frankel to show me a case where the family had no intention to file a malpractice lawsuit before an autopsy and then filed one because of the autopsy.

Second is the issue of whether autopsies help protect clinicians in cases where the family was going to file a malpractice lawsuit, autopsy or no autopsy. Like the pathologists in Dr Frankel’s group, I am commonly contacted by attorneys regarding autopsy findings. My experience in these cases is that the autopsies almost always reveal a more complex multifactorial cause of death than the plaintiff’s lawyers want, revealing details that show why the correct diagnoses were difficult to make. This was well illustrated by the single lawsuit in our case series which was discussed in the article. Even if the autopsy reveals no such details, requesting the autopsy provides evidence of the clinician’s good faith, eliminating the suspicion that he or she was trying to hide something. Others have reported the same experience I have had. At the CAP/ASCP/APC Conference on Restructuring Autopsy Practice for Health Care Reform in May 1995, a malpractice insurance industry expert gave a presentation entitled “Autopsy: a cutting edge defense.” He presented six cases to illustrate how autopsies protect clinicians in malpractice lawsuits. Our statement that “autopsies can protect clinicians in malpractice lawsuit cases” was not naive. I would challenge Dr Frankel to show me a case where the autopsy made it more difficult defend a clinician.

The third issue is whether, if it were true that finding undiagnosed treatable causes of death at autopsy posed malpractice risks, that autopsies should not be performed. If it were true, I would hope that Dr Frankel would agree that autopsies should be performed anyway in the interest of improving future patient care.

Dr Goldhahn wonders if the conclusion to be drawn from our study is that, with all their high-technology imaging and laboratory testing, physicians have asymptotically approached being about as good as they can be, leaving no room for improvement. The conclusion I have drawn from my experience is that physicians today have substituted high-technology testing for history and physical examination rather than adding them together. The result is diagnoses missed which could potentially have been made with better history and physical examination. For instance, we recently had an autopsy which revealed the cause of death to be an undiagnosed incarcerated femoral hernia. After presentation of this case at a conference for the medicine residents, we agreed on the value of an early surgical consultation in any patient with nausea and vomiting which might represent intestinal obstruction or other “surgical” disease. If modern high-technology testing were added to old-fashioned lengthy detailed history and physical examination, I believe that physicians today could get better outcomes than they do. I stress this conclusion in my teaching of medical students and residents. I believe the worst influence driving physicians today to do poorer history and physical examination is the drive for “efficiency” requiring physicians to see more and more patients in the same amount of time, with less and less time for each patient. I wish every family whose loved one died because the physician did not have time for an adequate history and physical examination could sue the administrators and policy makers pushing “efficiency” for their malpractice!

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