LETTERS

John Edwards was right to multiply liability

The October editorial by Dr. Robert L. Barbieri on "How John Edwards changed case law and multiplied liability" is confusing. I do not know all of Edwards' cases, but the one Dr. Barbieri picked to bash him with is totally off the mark, as it actually makes Edwards look real good.

Elective vaginal delivery of a footling breech infant following a 7-hour labor—with or without a nonreassuring fetal heart rate (assuming the diagnosis was timely)—was not and is not the standard of care. Edwards was right to seek compensation from the attending (defendant) physician.

Moreover, the nursing staff should have been more alert and forthright, not to mention more communicative with superiors during the 7-hour labor, since labor alone is a contraindication in a footling breech. The fact that the consent form for the elective vaginal delivery was signed 80 minutes after birth only increases the dubious nature of this patient's management.

In addition, since hospital deliveries have always been a collaborative effort, the "corporate hospital" is also responsible for the care of the patient. Again, Edwards was right to pursue the hospital, regardless of what was "customary for plaintiff attorneys" at the time.

The criticism of Edwards' recent book, *Four Trials*, is also misleading. The book is just what its title claims: an account of 4 trials. It is unfair to blame Edwards for failing to address all liability issues in it, and unreasonable to question the voting integrity of Senator Edward Kennedy (D-Mass) and other like-minded senators—unless your goal was preelection political spin.

The medical liability problem precedes Edwards by decades, and will continue unless the profession (me and you) stop blaming others and organize efficiently.

In my opinion, the headline for the editorial should have been "How John Edwards rightfully changed case law and multiplied liability, and how the medical profession learned nothing from it for almost 20 years."

Paul B. Bartulica, MD
Lorain, Ohio

"The medical liability problem precedes Edwards by decades."

John Edwards' case seemed right on target

Although I enjoy Dr. Barbieri's thoughtful editorials, the one on John Edwards caused me some concern.

Are you saying it is appropriate for a hospital to obtain consent for treatment 80 minutes after the procedure? In my opinion, this borders on fraud and should not be considered a legal document.

Are you saying a hospital/medical staff should not "closely oversee" the care provided by members of the medical staff? In my opinion, this is one of the major functions of the hospital/medical staff.

Ray King, MD
Opp, Alabama

Dr. Barbieri responds:
Thanks to Drs. Bartulica and King for their detailed comments. To my knowledge, Edwards was the first medical liability attorney to take a case to trial without a defendant physician, and to identify as defendants nurses, hospital board members, and administrators. In 1985, this tactic was considered very aggressive. In my opinion, it would appear more constructive to balance the needs of the plaintiff against the potential adverse effects of expanding liability to every individual who interacts with a patient. ■