

Negligent Neurosurgeon Gets 7 years in Prison

By ***Catherine Bertram***



A Brisbane, Australia court has [convicted a surgeon](#), Dr. Jayant Patel, of three counts of manslaughter and sentenced him to seven years in prison after finding he performed multiple reckless surgeries on Australian patients. The trial lasted 14 weeks.

According to news articles, Dr. Jayant Patel, was a neurosurgeon with a pattern of surgical malpractice stretching back to 1982, including a bowel operation that left one patient unable to pass any food and several patients who died of postoperative bleeding caused by improperly performed surgeries.

[According to the Brisbane Times' account of the proceedings](#), Dr. Patel's career began with malpractice and only got worse. His license was suspended in New York state in 1982 but reinstated after he appealed. His negligent treatment continued in 1988 after he moved to Oregon. [The Oregon Board of Medical Examiners disciplined him in 2000](#), and he was fired in 2001.

Yet everywhere he went, including Australia in 2003, Dr. Patel brought glowing recommendation letters from physician colleagues. In the United States, the hospitals who considered allowing this surgeon to operate on patients have a duty to investigate his education, license and past malpractice history. Each hospital has a independent duty to perform a credentials check prior to allowing a doctor or surgeon to practice at their hospital. Each hospital also has an ongoing obligation to make sure surgeons are operating in a safe manner and when there is a bad outcome the hospital has a responsibility to investigate and make sure the surgeon is safe. In some instances surgeons require re-training or

supervision. In other circumstances surgeons are fired and their privileges to operate are suspended or taken away. In this case, each hospital had a duty to investigate Dr. Patel's surgical history and specifically his malpractice history before allowing him to operate on patients at their hospital. Unfortunately, three people are now dead and several others are seriously injured as a result of this surgeon's misconduct and the facilities' failures to prevent this surgeon from operating again and again.

The case appears to be the first in Australia to find a physician clinically liable for reckless care. Some Australian doctors expressed concern, but few cases of malpractice are so egregious that criminal charges are warranted.

It is critical for patient safety that each hospital perform independent credentialing investigations of all surgeon and doctors who practice at their hospital at least every two years.

About the author:

Catherine Bertram is board certified in civil trials and was recently nominated as a 2010 Super Lawyer for Washington, D.C. Ms. Bertram has 20 years of trial experience and is unique in that she was formerly the Director of Risk Management for Georgetown University Hospital so she brings a wealth of knowledge to her practice including how hospitals should be run and what doctors and nurses can do to protect patients. She is a partner with the firm and devotes her practice to the representation of patients and families of loved ones who have been injured or lost due to medical errors. Ms. Bertram lectures regularly to lawyers and health care providers, nationally and locally, regarding patient safety, medical negligence and other related issues. She has also recently published a chapter in a medical textbook. She can be reached by email at cbertram@reganfirm.com or by phone 202-822-1875 in her office in Washington, D.C.