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### Book Review

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Reviewed by John J. Kuchinski\*

LAW AND THE SURGICAL TEAM, by Carl E. Wasmuth and Carl E. Wasmuth Jr. Williams and Wilkins Co., Inc., Baltimore, 1969, 414 pp.

We are now, and in the recent past have been, in a rather fluctuating state as to the precise legal liabilities and responsibilities that arise from a physician-patient or hospital-patient relationship. With today's rapid technological advances, it is difficult, if not impossible, to approach these problems with much certainty. From a purely *stare decisis* point of view, it is the opinion of the authors of *Law and the Surgical Team*, however, that a legal trend is now becoming apparent, the emphasis being primarily upon the liabilities arising from surgical procedures. The emphasis is on procedures in hospital, particularly in surgery.

Carl E. Wasmuth (M.D., J.D.), the main author of this book, is the Head of the Department of Anesthesiology of the Cleveland Clinic Foundation, and Adjunct Professor of Law at Cleveland State University's College of Law. His co-author is his son, Carl E. Wasmuth, Jr. (Ph.D., LL.B.). Taking individually each of the participating members of the surgical team, the authors attempt to assess their various liabilities and responsibilities. Beginning each analysis with a brief historical note, the authors discuss the current stance of the courts with respect to these problems.

The authors say they discern a changing attitude in the courts' view of such medical problems such as: immunity from suit, the anesthesiologist's role during surgery, blood transfusions' status as a sale or service, consent to surgery and emergency treatment, etc. The recent controversy over the transplantation of organs, and the concept of death itself, also are treated.

A main concern of the book seems to be the question of "primary responsibility," when, to an ever-increasing degree, the surgical team is composed of more and more *specialists*. The concept that the surgeon is the "Captain of the ship," while still adhered to by some courts, appears to be facing increased questioning. As the individual role of each member of the "team" requires more diligence and specialized skill, the Courts or medical profession may, in the future, demand that a medical coordinator oversee the acts of all members, relieving the surgeon of the many customary and traditional duties now imposed on him. This would seemingly enable him to give his undivided attention to his basic duties in the operation.

There does indeed seem to be a discernible trend in the direction of the solidification of legal principles with regard to these legal prob-

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lems. This book presents a survey and short analysis of these evolving rules. As it states in the Preface, its purpose "is to attempt to explain our basic law as it applies to the present-day practice of medicine, most particularly to that practice in the operating room."

The book is footnoted in law book style, suggesting that it is intended to be used by lawyers primarily. Yet, the tone of the book seems to suggest that it also is meant for use by physicians. The language employed, finally, suggests that the work is addressed primarily to physicians.