

ACLS-office surgery rule revised

By LAURIE BARCLAY

A new rule requiring physicians performing level II and level III office surgery to be certified in advanced cardiac life support (ACLS) and one assistant to be certified in basic life support (BLS) is being touted by some as the latest step in enhancing patient safety. Others, however, say its just more red tape to encumber Florida providers.

"In my opinion, [the revised rule] is continued pressure by the Florida Board of Medicine (Board) to demonstrate that physicians are properly trained and prepared to provide safe surgeries in their offices," said Ann Bittinger, a health law attorney with the Bittinger Law Firm in Ponte Vedra Beach. "The Board already has cracked down on

office surgeries a few years ago, suspending many office surgeries."

The sometimes overzealous reaction of the Board is probably partially in response to cases such as the Gottlieb case, Bittinger alleged. Marvin Gottlieb was a 32-year-old philanthropist who died in April 2004 following liposuction in the office of Jacksonville plastic surgeon Reza Samiian, MD. An unlicensed surgical technician entrusted with the post-op care was unable to perform CPR or operate an oxygen mask, and Gottlieb died of pulmonary complications.

However, the impetus for revising the rule, according to Rafael Miguel, MD, a professor of anesthesiology at University of South Florida and H. Lee Moffitt Cancer Center in Tampa, was the Continuous Quality Improvement process of the Florida Department of Health (DOH)

Surgical Care Committee, after hearing testimony and cases over the years, and not in response to a singular event.

"The rule change ... is a sound move to enhance practitioner knowledge and effective team reaction during cardiopulmonary resuscitation in offices," Miguel said. "The new rule requires the surgeon to have current ACLS certification, which is reasonable since it is his/her patient. In the absence of an anesthesiologist, the surgeon would have sole medical and legal responsibility for patient care."

DOH's Surgical Care Committee had concerns about physicians supervising

mortality rate than surgery which occurs in an ambulatory surgery center or hospital, even though the patients should be healthier in the office setting."

The revised ACLS-office surgery rule, entitled "Standards of Care for Office Surgery," applies to levels II and III office surgery only, not to surgery performed in hospitals or in surgery centers.

In 2004, a court ruling known as the "Ortiz" decision overturned the requirement that an anesthesiologist provide or supervise the anesthetic provided for level III office surgery, leaving the surgeon as the one supervising anesthetic delivery. In Welch's opinion, this decision prompted the Board to look more closely at the training of the surgeon providing

this service, and to conclude that the surgeon should be ACLS certified.

"The supervising surgeon must be the one with the highest level of training in order to more effectively

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anesthesia providers with only the BLS training, noted DOH Public Information Officer Thometta Cozart.

"[We] decided to require a higher level of training in life saving procedures. Thus, the requirement for the ACLS accreditation was approved to meet the higher level of training," he said. "The Board of Medicine holds the physician responsible for the safety of their patients."

No hospitals, ASCs

Rebecca Welch, MD, chair of the Committee on Communications and immediate past president of the Florida Society of Anesthesiologists, agreed that the Board has been "very concerned about patient safety. The office has been an area of particular interest, since surgery in this location has been shown to have a higher

supervise and deal with the adverse consequences of the delivery of medications in the office," Welch said. "I think that this is certainly an important step to improve patient safety. It falls far short of having an anesthesiologist present to deliver or supervise the anesthetic, but it does improve the qualifications of the existing supervising physician."

Deaths down

A review of surgical incidents in Florida office-based settings from March 2000 to March 2003, published in 2004 in *Dermatological Surgery*, found 13 procedure-related deaths and 43 procedure-related complications that resulted in a hospital transfer. Of the 13 deaths, seven involved elective cosmetic procedures, five of which were performed under general anesthesia and two of which were per-

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formed with intravenous sedation anesthesia.

Brett Coldiron, MD, FACP, and co-authors concluded that restrictions on office procedures for medically necessary procedures, such as requiring office accreditation, board certification, and hospital privileges, would have little effect on the overall safety of surgical

inconvenience surgeons' practices. Nor does she believe the revised rule will significantly affect anesthesiologists or anesthesiology assistants (AAs).

"It's not going to affect us," agreed Robert Wagner, AA, immediate past president of the American Academy of Anesthesiology Assistants, and director of the new AA program at Nova South-

ACLS supervised."

Unlike certified registered nurse anesthetists (CNRA), AAs always have to work directly under the supervision of an MD anesthesiologist, Wagner explained. The revised rule should therefore not undermine work opportunities for AAs, and it will mean that when AAs attend Level II and III office procedures, their presence will add to the number who are ACLS-certified.

Despite many recent changes in drugs recommended for ACLS, Wagner believes that the latest American Medical Association protocol is somewhat simplified from previous versions. He also urged every office to have an automated external defibrillator (AED), especially now that they are so easy to use. Wagner is an instructor in ACLS, and he has noticed an upswing in offices calling to get ACLS certification for their office staff, including physicians and nurses.

"It's a good sign for patient safety," he maintained. "Now, someone can initiate ACLS until the 911 team gets there." ♦



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— *Christopher Nuland, general counsel,
Florida Society of Plastic Surgeons*

procedures. However, they noted that their conclusions were dramatically different from those of an earlier study, which showed a 12-fold increased risk of death for office-based procedures.

Although studies show that the number of office surgery deaths has continued to drop, according to Christopher Nuland, general counsel for the Florida Society of Plastic Surgeons (FSPS), the Board, FSPS and similar organizations have all continued to develop methods of improving safety.

"By requiring ACLS certification of all level II and III office surgeons, the Board has managed to add another layer of safety while providing only a small inconvenience to the physician," Nuland concluded. "All but a few FSPS members performing level II and III surgeries already were ACLS certified, so the additional training was a small sacrifice to pay for the potential patient safety benefit."

AAs can rest easy

Because ACLS training can be obtained in a two-day course, Welch does not believe that the new regulation will substantially

eastern University in Ft. Lauderdale. "When we got licensing in Florida one year ago, the Board required us to be

The New Rule

The revised ACLS-office surgery rule, entitled "Standards of Care for Office Surgery," was adopted on Oct. 3 and went into effect on Oct. 23. It applies to levels II and III office surgery only, not to surgery performed in hospitals or in surgery centers.

Previously, Rule 64B8-9.009 (4)(b)2 of the Florida Administrative Code stated that the surgeon and one assistant must be currently certified in BLS and the surgeon or at least one assistant must be currently certified in ACLS or have a qualified anesthesia provider practicing within the scope of the provider's license to manage the anesthesia.

The revised rule now states that one assistant must be currently certified in BLS and the surgeon must be currently certified in ACLS. Every Florida licensed physician who holds an active Florida license and performs level II surgical procedures in Florida with a maximum planned duration of five minutes or longer, or any level III office surgery, is required to register with the Board or provide copies of their and their assisting staff members' current ACLS-BLS accreditation.

The text of the rule also states that it is not intended to relieve the surgeon of the responsibility for making the medical determination that the office is an appropriate forum for the particular procedure(s) to be performed on the particular patient.

Copies of your and your assisting staff's current ACLS-BLS accreditation should be sent to:

Office Surgery Registration Program at the DOH, 4052 Bald Cypress Way, Bin C-03,

Tallahassee, FL, 32399-3253. The contact person for questions is Gwyn Willis at

850-245-4131, ext. 3532 or gwyn_willis@doh.state.fl.us or go to: www.doh.state.fl.us/mqa

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