

Transsexual Surgery

SEP 21 1979

Allen's P. C. B Est. 1888

Sexual Torts Bringing Higher Jury Awards, Local Attys Say

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By G. V. Stewart
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Los Angeles—Changing law and changing public attitudes are rapidly expanding the field of sexual torts and bringing higher jury awards for victims of such actions, a panel of experts at the State Bar convention confirmed.

The Wednesday morning panel included renowned trial lawyers Melvin Belli, Marvin E. Lewis, and David Harney and psychologist Dr. Cassandra Brothers.

Their panel discussion was among the final day's activities of the 1979 annual meeting of the State Bar at the Bonaventure Hotel in Los Angeles.

Each of the lawyer panelists emphasized that the law of sexual torts is rapidly changing, spurred on by the advancing women's liberation movement and the entertainment media.

"The law has kept pace with technology — and with the times," remarked Lewis, who chaired the panel. "The law is not frozen in cement."

Lewis briefly recapitulated the history of the law on sexual matters, emphasizing that only recently has the right of women to sexual pleasure been recognized socially and legally.

Lewis noted that California law still provides no civil remedy for seduction, but that this may soon be changed.

Lewis, who handled the San Francisco case in which a woman received damages for sexual trauma arising from a cable car accident, underscored the need for trial lawyers to be aware that medical doctors and psychiatrists often traumatize patients in the guise of "advanced" treatment methods.

He also noted that damages may be awarded where third party negligence is proven, as in the Connie Francis case, where it was shown the actress was assaulted because of lax security at a motel where she stayed.

Belli stressed the importance in cases involving sex change operations that the true psychic nature of the patient be determined.

He explained that there is considerable confusion about sexuality and gender identity and emphasized that only homosexuals who are transsexuals should have sex change operations.

Belli said the medical profession now is apparently backing away from sex change surgery that was inaugurated by the Johns Hopkins Medical Center in 1966.

He said there are now 20 major medical institutions performing sex change operations, led by Stanford Medical Center in California.

The principle problem for the lawyer handling a case involving alleged malpractice in a sex change operation is to determine whether the patient was adequately primed and treated in advance of the surgery, Belli said.

He added the general standard nationwide for pre-surgery preparation

is one to two years of psychiatric and medical treatment.

With regard to suits over loss of consortium, Belli emphasized that such damages must be sought in all sexual tort cases.

"You must file for loss of consortium in all sex tort cases, or you'll be slapped with a malpractice suit," he declared.

He added that in sexual tort cases, both husband and wife have separate causes of action in California.

Harney said awards in sexual tort cases are becoming larger and more certain, noting that there is a far greater understanding today of both the physical and psychological results of sexual trauma.

Dr. Brothers outlined the approach lawyers should take in preparing a sexual tort case, stressing that the help of specialists is virtually man-

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PALO ALTO, CALIF.
Times
Cir. 6KW 43,489

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MAR 5 1974

Allen's P. C. B. Est. 1888

Conference topics range from cancer to sex changes

1304
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SAN FRANCISCO — Legislators argued the merits of PSROs, retired 49er football star John Brodie talked about motivation in rehabilitation, and a Los Angeles psychiatrist discussed sex change operations Monday at the California Medical Association (CMA) convention here.

But those were just a few of the highlights. Dozens of technical scientific presentations on topics ranging from plastic surgery to cancer and pharmacology were held throughout the day in the Hilton Hotel.

PSROs — Professional Standards Review Organizations — are in the forefront of medical news these days, and the focus of much controversy.

The requirement for establishing PSROs, which will be under the jurisdiction of the federal Health, Education and Welfare Department, were tacked on to a Social Security Act, Rep. John Rousselot R-Arcadia, said.

According to the legislation, the PSROs, organized by regions, are supposed to be established by January, 1976. If not organized by then, HEW will step in and set them up.

Rousselot, a strong opponent of PSROs, is urging repeal of the PSRO legislation.

Rep. Al Ullman, D-Oregon, supports the professional review organizations, but even he wants amendments to the current legislation.

His concern is that the PSRO legislation "be implemented as it was intended to be." He expressed "grave concern" about some of the regulations issued but stressed that unless there is some "outside" review of physicians "costs will go out of sight."

Rousselot, however, argued there already is an effective system for peer review, and declared, "we don't want to mess it up with a government-managed bureaucracy to oversee it."

Two doctors representing CMA

committees, Dr. Richard Opfell of Santa Ana and Dr. Robert Bartel of San Diego, felt the same way.

"Many people don't know the good work we're doing in California," Dr. Opfell declared. "I hate to have it interfered with by HEW ... with GS 17 types laying down rules and regulations on how to do it, plus the additional costs."

Interjecting HEW into peer review would up costs by 10 times, he added.

Both doctors stressed that the public is unaware of physician activities in peer review and efforts to improve the quality of medical care.

Included are programs of continuing medical education and accreditation programs for hospitals, designed to insure good medical care.

CMA members are now bringing the patient into the picture, and getting their views on medical care, Dr. Opfell said.

"If we keep stressing our view of quality and not the patient's, then our credibility will suffer."

A CMA public advisory committee, whose membership includes consumers as well as professionals, is now considering patient "dissatisfactions" as well as the more technical areas of medical care.

Football star John Brodie retired from the 49ers last fall to devote full time to his activities as director of Narconon, a nationwide drug rehabilitation program with a center in Palo Alto.

He became involved in Narconon when the program helped him recover from "an arm problem."

Now he's a crusader for the system. Despite verbal skirmishes with reporters, it was impossible to pin Brodie down to a detailed description of the program.

He would say only that a "technology" is used to help rehabilitate people, and made them more able to control their lives.

"Over 150 people in this area have gone through and come out in a pro-

ductive situation, able to handle their own environment," Brodie said.

Narconon also gives classes in the "technology" to non-drug users, because the principles are adaptable to general life.

Brodie noted that in Palo Alto six classes are being offered in a continuation school, and 70 police officers are taking the course.

He also declared the Narconon philosophy is separate from Scientology, another one of his interests.

The Los Angeles psychiatrist reporting on sex change operations was Dr. Richard Green, from UCLA.

Dr. Green's research is focused on the early life experiences of children, in an effort to determine what factors determine a child's sex identity.

As part of his research, he is studying children who report the same characteristics reported by transexual adults who have undergone sex change operations.

These include feeling like a person of another sex, playing with toys and wearing clothes of the other sex, and always feeling different from persons of the same sex.

By studying atypical cases, he hopes to get closer to what factors are important in normal development.

Dr. Green reported the current status of sex change operations is "a period of consolidation."

There is much more public and professional acceptance of sex change operations, he indicated. There are about a dozen centers now, including Stanford Medical Center, where the operations are performed.

Now, after seven years experience in the U.S. with such surgery, it is possible to begin evaluating long term results.

Scientific sessions of the medical convention ended Monday.

Today the CMA's 323-member House of Delegates met to consider a series of resolutions, with subjects ranging from abortion to the gasoline shortage and energy crisis.