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LEGAL NOTES AND NEWS – FALL 2013

How Many Die Each Year From Medical Mistakes in U.S. Hospitals?

In 1999, the Institute of Medicine concluded that up to 98,000 people a year die because of mistakes in hospitals. In 2010, the Office of Inspector General for Health & Human Services reported that bad hospital care contributed to the deaths of 180,000 Medicare patients alone in a given year. In 2013, the Journal of Patient Safety reports a study that concludes between 210,000 and 440,000 hospital patients each year suffer preventable harm that contributes to their death.

Spoliation of Evidence Claims and Sanctions Available in OH.

Ohio is one of 14 states that recognizes a separate tort claim for spoliation of evidence. The seminal case is *Smith v. Howard Johnson Co., Inc.*, 67 Ohio St.3d 28 (1997). Courts also have inherent authority to fashion reasonable sanctions.

New Study Proves Med Mal Costs Do Not Contribute to Rising Health Care Costs.

A 2013 Public Citizen study reveals that med mal payments made on behalf of doctors in 2012 was the lowest on record. While health care costs are rising, med mal payments and related litigation are falling.

Save the Date!

The SWOTLA Trial Judge of the Year Dinner will be Dec. 7, 2013 at The Westin.

Send Your Comments Now Opposing Amendments to Federal Civil Rules

The Judicial Conference of the United States has proposed changes to the Federal Rules of Civil Procedure that would fundamentally change the discovery process. The proposed FRCP changes reduce presumptive discovery limits to 5 oral depositions, 15 interrogatories, and 25 requests for admissions. Are Ohio Rules next? Send your comments to rules_comments@ao.uscourts.gov before Feb. 15, 2014.

Allegation of Employee Negligence Apart From R.C. 2744.02(B) Exceptions Will Not Overcome Political Subdivision Immunity.

In *J.H. v. Hamilton City School District*, CA2012-11-236, the 12th District Court of Appeals affirmed the trial court's granting of a Rule 12(C) motion for judgment on the pleadings when the complaint alleged school board employee negligence outside the five 2744.02(B) exceptions to immunity.

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