

FIRST PERSON: GIVE PATIENTS, FAMILIES THE LEGAL RIGHT TO REQUEST CAMERAS IN OPERATING ROOMS

Proposed 'Surgical Black Box Bill' stems from the preventable death of a 38-year-old Wisconsin woman, and other medical-error cases like it



by Wisconsin Rep. Christine Sinicki
(Rep.Sinicki@legis.wisconsin.gov)

Eight years ago, a constituent told me this story: a botched plastic surgery put his sister Julie into a three-month coma, and then she died.

After months of trying, he and his family finally extracted the truth from the clinic: the practitioner had proceeded solo, administering the sedative himself in much too high a dose. The overdose led to the coma and eventual death of the 38-year-old woman.

Since my meeting with Julie's brother, other families across Wisconsin have come forward to tell me they also have lost parents, siblings or children due to errors during fairly routine surgeries.

These operations included hip replacements and foot surgeries, and even simpler procedures such as hernia repairs and pacemaker adjustments.

All of these surgeries gone awry caused patients' deaths. But in some cases patients lingered, severely disabled, before succumbing to the injuries inflicted on them.

In other cases, patients have lived on with permanent disabilities that have changed their lives irreparably.

The families then went through the added trauma of trying to find out what happened during the surgeries that harmed their family members.

People should not have to fear the operating room or its aftermath more than they fear the health problems that brought them there.

Only verbal accounts from staff who were physically in the operating rooms were available — no objective records existed.

It is sad these tragedies happen secretly in operating rooms in Wisconsin, where other types of transparent medical records are routine in many of our major medical systems.

'SURGICAL BLACK HOLE' LEAVES UNANSWERED QUESTIONS

However, in Wisconsin, as in other states, reliable procedural records rarely are created during surgeries, regardless of the location — hospitals, outpatient facilities, or stand-alone surgical centers.

We do see medical schools using audiovisual recording equipment in the operating rooms of their teaching hospitals for training purposes. And some places, such as the country of South Korea, are requiring such technology in all operating rooms to ensure that these records are created and remain available.

In general, though, what happens in surgical suites still stays in surgical suites in most facilities across the country.

As I described above, only medical staff from the operating rooms can say what really happened, but families find that even these accounts can vary or even conflict.

Patients and their families, and also their providers, are left with no factual record of surgeries.

Which staff were in the room, and at what point?

Which staff were involved in a surgery,

and at what point?

What conversations were held or directions given as the surgery took place?

'SURGICAL BLACK BOX BILL' AIMS TO HELP FAMILIES FIND ANSWERS

That first conversation with Julie's brother led me to try to respond to this gap in surgical records by introducing legislation we call the "Surgical Black Box Bill."

This session, it is Assembly Bill 1011.

Under language in this bill, patients and providers could request audiovisual recordings of surgical procedures. Medical facilities would be required to comply with these requests.

The bill also says these facilities must treat the recordings like any other medical records and protect them to the full extent of the law.

Patients could access the recordings, of course, but would have to keep them private; stiff fines would deter misuses such as postings on social media.

The bill goes on to outline the use of advance directives regarding surgical recordings, and also includes some exceptions to the law and other procedural matters.

Sounds like common sense? It does to most people I have talked to about the bill, including a number of doctors and nurses.

Opposition, of course, comes from the most powerful actors in the medical sector, despite the fact that this bill can protect medical providers, too.

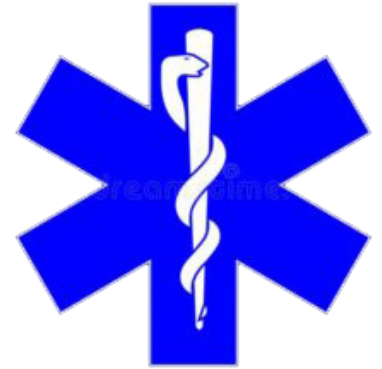
Even with some bipartisan support, AB 1011 never has been discussed openly in a public hearing in our Legislature, much less voted on in committee or by our full Assembly or Senate.

This has gone on in all four of the legislative sessions that I have introduced the Surgical Black Box Bill.

MORE AWARENESS OF ISSUE NEEDED TO GET BILL PASSED

Deprived of these official channels, I took matters into my own hands recently and held the first "Patient Safety Advocacy Day" in our state Capitol.

Along with the families, we invited experts in the field from around the country. We held a press conference and panel discussion about the effects of medical error on our citizens, as well as the lack of recourse for loved



ones in the aftermath of losing a family member. We heard families' stories, and screened the documentary "Bleed Out."

Expert participants included Dr. David Mayer, executive director of the MedStar Institute for Quality & Safety; Martin Hatlie, CEO of Project Patient Care; leadership at the Leapfrog Group; and Steve Burrows, creator of the award-winning HBO documentary "Bleed Out" about his mother Judi's disablement and death after a botched hip replacement and ensuing negligence.

We had a successful first event, with people traveling to Madison even from out of state to attend.

The day also kicked off external organizing that I hope will create greater awareness and political will for these policy changes.

I believe that, after four sessions of fine-tuning this bill, it is in good shape. Legislators elsewhere are welcome to review and adjust it for introduction in their own statehouses.

We need a movement across the country for constructive policies to deal with these too-frequent medical tragedies.

People should not have to fear the operating room or its aftermath more than they fear the health problems that brought them there.

As legislators, we must help our constituents push back against the continued, relentless pressure that shrouds these medical procedures in secrecy.

Rep. Christine Sinicki was first elected to the Assembly in 1998. She is a 2001 graduate of CSG Midwest's Bowhay Institute for Legislative Leadership Development (BILLD).

SUBMISSIONS WELCOME

This page is designed to be a forum for legislators and constitutional officers. The opinions expressed on this page do not reflect those of The Council of State Governments or the Midwestern Legislative Conference. Responses to any FirstPerson article are welcome, as are pieces written on other topics. For more information, contact Tim Anderson at 630.925.1922 or tanderson@csrg.org.

