

Med Mal

Standard: that of a professional of average skill, knowledge, etc
– custom of profession is determinative

Judgment rule – only use where more than one acceptable course of action (cost/benefit) – must look at each allegation separately

Inherent risks

How to prove? Experts.

Don't need same specialty but must have personal knowledge and experience of procedures/illness at issue

Same or similar locality rule vs. national standard – national standard for gps, still take resources into acc't

Common knowledge exception – RPP – often res ipsa cases

Informed consent – not about performance of procedure but patient autonomy in deciding

Professional standard – what would other pros. Do?
experts

Lay standard – what would a [rsble] patient want to know?
Don't need experts. Material risks only. Maj.: look at what rsble person would find material; minority – what this P would find material

Exceptions: emergency, medically unwise/therapeutic priv.
(narrow)

Legal malpractice: must know law and if law is contested must
do legal research to discover

To show causation, must put on “case w/in a case”