

Monday, November 13, 1989

## Caperton clarifies laws, medicine

By Juliette Rizzo

Of The Battalion Staff

Although the fields of law and medicine may seem unrelated, lawyers and doctors frequently have to interact with one another.

State Sen. Kent Caperton, D-Bryan, took a break from politics last week to inform students in Medical Humanities 911 in the Texas A&M College of Medicine of some of the ways the fields relate directly to each other.

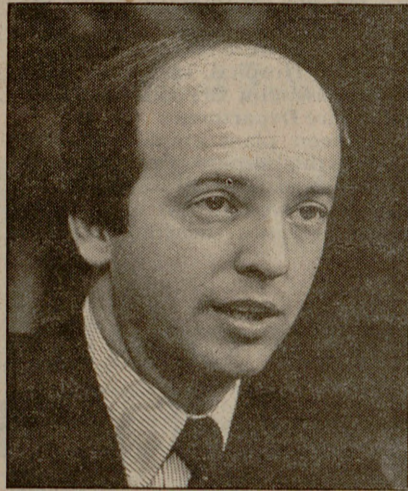
"All too often it is believed that the relationship between law and medicine is purely adversarial," Caperton said. "To an extent it is but not to the extent that you (students) as doctors should be fearful of lawyers."

He went on to clarify to the students that medical malpractice litigation is real, but fear of this should not inhibit their desire to practice in the field.

Students should not fall prey to the myths and "scare stories" that surround the two fields, Caperton said.

"The courts sometimes act upon horror stories involving medical malpractice but sometimes the cases are dismissed," he said. "Do not believe all you read."

As a practicing lawyer since 1975, Caperton said he has directly dealt



Kent Caperton

with only one medical malpractice suit. In the case in point, the jury found the doctor not guilty of negligence and therefore not accountable when a young boy developed a pulmonary embolism which resulted in death.

The idea that a person can waltz into a court room and say "the doctor did it, pay me" is a misconception, he said. In a case such as the one just mentioned, the plaintiff must have sufficient elements of

proof that the doctor's failure to use ordinary care was blatant and that it was foreseeable that a deviation from ordinary care caused injury or death.

Caperton said doctors are held accountable in a situation where they fail to use ordinary care. The situation is the same as when a driver who fails to use ordinary care and causes an accident is held accountable those who are hurt as a result of his negligent actions.

Caperton, a senator in the state's fifth district, which includes Bryan-College Station, said tort reform in the area of medical malpractice is hard on the legislature.

Landmark legislation in the area of health care was introduced during the last session of the Texas legislature, Caperton said. It was proposed to the House that a doctor should be held accountable in a malpractice situation only if the doctor is found guilty of gross negligence.

Caperton said he felt this was a contradiction of terms because it stated that it was OK for a doctor to be negligent as long as he wasn't grossly negligent. This proposition did not become law but a new tort reform was voted into effect that did away with traveling testifiers or "hired guns." Now only expert witnesses can testify on the behalf of the injured party.

The courts also made it clear to juries that finding evidence of negligence should not be based solely on finding bad results, he said.

"People die despite the best medical efforts," Caperton said. "Now juries are told evidence of a bad result is not evidence of negligence."

Another major philosophical hurdle in medical policy change came about in the area of damages, he said. If a doctor devotes 10 percent of his time to charity patients, the state of Texas will pay the first \$100,000 of any judgment against the health-care provider.

Although these changes in the constitution are beneficial to doctors, there are some proposed changes Caperton does not feel strongly about. He believes the limit on the amount of damages the injured party can recover should be left up to the jury. The legislature cannot abridge one's right to seek remedies through the system, he said.

Caperton said the national health care debate is on-going in Congress and in the state but legislators, including himself, are working to better the relationship between law and medicine.

Caperton's speech heightened the students' awareness of clinical competence and its relationship with the law. He left them familiar with situations they may have to face when they graduate.

## Association of Hispanic Journalists at A&M one of first student chapters of NAHJ to get national recognition

By Julie Myers

Of The Battalion Staff

Texas A&M will be home to one of the first nationally recognized student chapters of the National Association of Hispanic Journalists next month.

"In the journalism department, there is no place for Hispanics to get information about internships and scholarships," NAHJ president and junior journalism major Suzanne Calderon said.

Enrollment figures estimate 25 to 30 students in the journalism department are Hispanic. Calderon said she thinks this estimate is not an accurate picture of minority enrollment.

"Those are only the students who have identified themselves as Hispanic," she said. "Many minorities hesitate to identify themselves as Hispanic or black."

Because the University is trying to increase minority enrollment, Calderon said its important for everyone to specify their race.

"With more organizations like NAHJ and the National Association of Black Journalists, we can hopefully entice more students to come to A&M," she said.

Calderon said she wants NAHJ to make success attainable for more Hispanics because minorities have a tough time in journalism. For this reason, NAHJ provides a job exchange program for all journalists looking for work.

"It's harder to move up because we can't get the more visible jobs in the field," Calderon said.

In the future, NAHJ members would like to visit their hometown high schools to encourage students to come to A&M, but Calderon said the association is presently concentrating on "housekeeping" and preparing paperwork for the national organization.

Besides their basic goal of minority recruitment,

NAHJ also will focus on acquiring more financial aid for eligible students. Various corporate scholarships as well as broadcasting internships and NAHJ student scholarships totalling \$15,000 annually are available to Hispanic students.

Previously, these opportunities were not directed at Hispanics. Calderon said NAHJ now functions as a clearinghouse for these jobs and scholarships.

Although the organization's name implies that all

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— Suzanne Calderon, NAHJ president

students are journalism or communications majors, Calderon said any student having an interest in the journalism field can join.

In fact, although the organization hopes to advance Hispanics in journalism, students of any race can participate.

"We are hoping to find students who are really motivated, outgoing and aggressive to get this going," Calderon said.

## Rally defends women's right to abortions

AUSTIN (AP) — Thousands of pro-choice activists bolstered by recent election wins and appealing to Texans' sense of freedom rallied Sunday at the Texas Capitol and vowed to defend a woman's right to an abortion.

"Texas won't be the first state to roll back abortion rights," Lt. Gov. Bill Hobby promised a crowd that police estimated at between 15,000 to 20,000, one of the largest demonstrations ever held at the building.

Political and religious leaders and Hollywood celebrities, including Cybill Shepherd and Morgan Fairchild, spoke during the afternoon rally.

Texas Treasurer Ann Richards, a Democratic candidate for governor, said that as Germans tear down the Berlin Wall, "We as Texans . . . are not going to stand idly by and watch the construction of a new wall between us and our freedom."

Richards said that since the 1973 U.S. Supreme Court decision of Roe vs. Wade that legalized abortion, "we have listened to the voices of people who want to take us back to the days of back-alley butchers and pregnancy as punishment. We are not going to go."

The crowd then began chanting, "Hell no, we won't go."

Texas Attorney General Jim Mattox, also a Democratic contender for governor, said 29 years ago a close friend of his died as the result of an illegal abortion.

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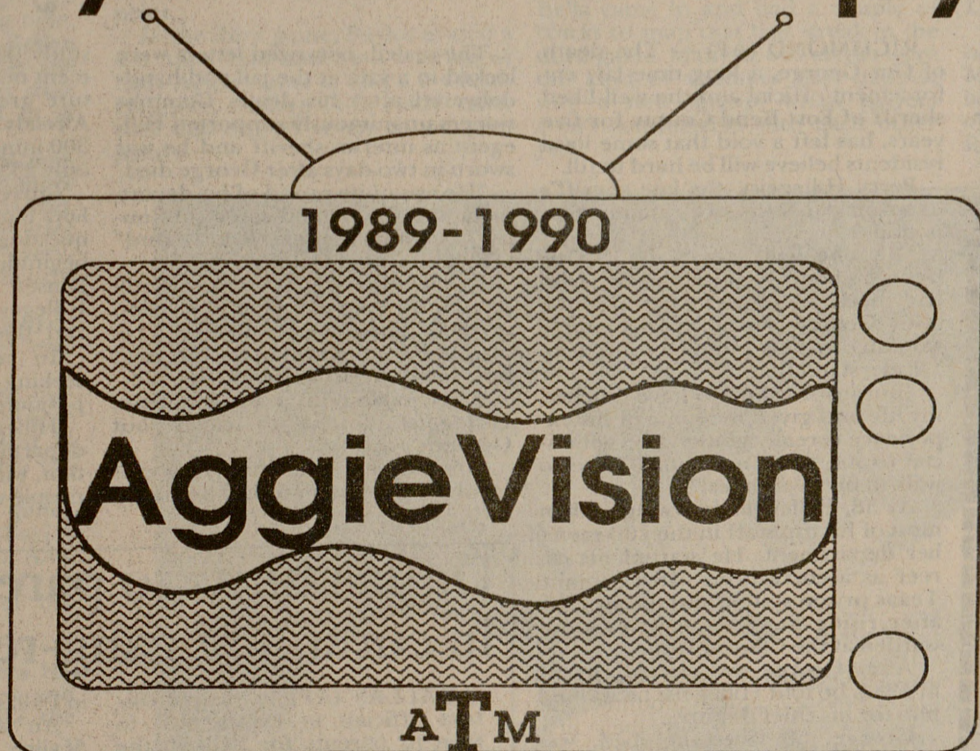
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