

EMTALA: E.R. Triage Nurse Followed Hospital's Procedures, Patient's Lawsuit Dismissed.

The parents brought their seven year-old son to the emergency room.

The triage nurse saw the boy at 7:39 a.m. and took vital signs, temp 98.1, BP 110/67 and heart rate 145. The elevated heart rate led the nurse to classify him as a potential emergency patient. She put him in a room to be seen by the physician.

The physician saw him at 8:00 a.m. The parents told him the boy had been vomiting during the night. The physician ordered a CBC. The CBC band count and manual differential, which were available on the computer at 9:35 a.m. showed evidence of an ongoing infection.

The triage nurse took vitals at 9:58 a.m. The heart rate was down to 105-110. The physician, without looking at the lab results, discharged the patient at 10:15 a.m.

The next morning the child was brought back and had to be airlifted to another hospital in septic shock.

Triage Nurse Did Not Depart From Hospital Procedures Or Violate Patient's EMTALA Rights

The hospital's triage nurse saw the patient promptly, assessed him, classified him as a potential emergency case and had him seen promptly as such by the emergency department physician.

The hospital's E.R. guidelines for pediatric patients with vomiting/diarrhea/dehydration allowed, but did not require the triage nurse to order lab tests, including CBC and urinalysis when the child could not be seen right away by a physician.

The guidelines, however, did not establish a standard E.R. screening policy. They were intended only to improve patient flow and applied only when the pediatric patient could not be seen promptly by the E.R. physician. According to the US Court of Appeals for the Fifth Circuit, the hospital's guidelines did not place the responsibility on the triage nurse to order testing that was not ordered by the physician, as the parents' lawsuit argued.

The nurse did take vital signs within one hour before the child was discharged, as required by hospital policy. **Guzman v. Memorial Hermann**, 2011 WL 303260 (5th Cir., February 1, 2011).

Congress enacted the Emergency Medical Treatment and Active Labor Act (EMTALA) to prevent "patient dumping," that is, hospitals refusing to treat emergency room patients who are uninsured or unable to pay.

Any individual who comes in for emergency care is entitled to an appropriate medical screening examination and stabilization of an emergency condition.

An individual who is not stabilized can be transferred elsewhere for treatment only if stringent conditions are met.

An appropriate screening examination is the same screening examination the hospital would offer to any other patient in a similar condition with similar symptoms.

A patient can prove disparate treatment by showing that the hospital did not follow its own standard screening procedures or by pointing to differences between the screening examination that the patient received and the examinations that other patients with similar symptoms received at the same hospital.

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
February 1, 2011

Labor & Delivery: Nurse Faulted For Mishandling Of Shoulder Dystocia.

The baby's delivery was performed in the hospital by an obstetrician with the assistance of a registered nurse.

The child now has Erb's palsy as a result of complications from her delivery during which shoulder dystocia was encountered and allegedly mishandled by the obstetrician and nurse.

A lawsuit was filed on the child's behalf against the obstetrician and the nurse. The nurse's lawyers asked for dismissal of the nurse from the case on the grounds that the parents' lawyers had not come up with a valid opinion from an expert to support their allegations of nursing negligence.

When shoulder dystocia is encountered during delivery the labor and delivery nurse has a duty to advocate for the patient.

The nurse must immediately call for assistance from additional qualified medical staff including a neonatologist and an anesthesiologist and additional nurses, if available.

APPEALS COURT OF MASSACHUSETTS
February 8, 2011

The Appeals Court of Massachusetts ruled that the opinion from the family's expert pointed to nursing negligence.

Shoulder dystocia can require the McRoberts Maneuver to free the impinged shoulder, and that requires the involvement of more people, all of whom have to be knowledgeable and qualified, optimally three more than the two, the ob/gyn and the nurse who were there for this delivery.

The nurse also has to document that shoulder dystocia was encountered and what was done about it. That documentation was absent in this case. **Donaldson v. Payne**, 2011 WL 383036 (Mass. App., February 8, 2011).