

## IM Injection: Court Accepts Nurse's Testimony.

An intramuscular injection of pain medication was ordered by the emergency department physician for a patient who came in with a complaint of a severe headache.

In his lawsuit against the hospital the patient testified that it felt like a bolt of electricity down his left leg when he got the injection from the nurse and that pain in his left leg had continued from that moment to the present day.

The patient's lawsuit claimed negligence by the nurse in locating the correct spot for the injection, causing a sciatic nerve injury.

The nurse, however, testified she gave the injection in the right upper quadrant of his right hip, not the left.

An entry was made electronically in the chart at the time by the nurse that the injection was given in the "RDG," which the nurse testified stands for right dorsal gluteal.

The Court of Appeals of Texas approved the jury's verdict of no negligence, based on a judgment the nurse gave the injection on the right side, not the left. **Rodgers v. Med. Ctr.**, 2017 WL 5486043 (Tex. App., November 16, 2017).

## IM Injection: Court Accepts Nurse's Testimony.

The patient got an IM injection of allergy medication from a nurse at an outpatient clinic. Although her chart reflected no report of pain at the time, she later claimed she immediately felt shooting pains down her left leg.

Despite a normal EMG from a neurologist to whom her physician sent her the patient underwent a lengthy course of treatment with an out-of-state physician who specializes in diagnosing persons with chronic regional pain syndrome and testifying for them in court.

The jury in the patient's lawsuit found no negligence by the nurse.

During her testimony the nurse pointed to the gluteus medius on an anatomical chart as the location where she gave the injection. The nurse and the patient's own nursing expert testified that that, and not the gluteus maximus, is the correct location for an IM injection.

The Court of Appeals of Arkansas ruled the judge was correct to instruct the jury to disregard the patient's testimony as unreliable pointing to the gluteus maximus. **Engleman v. Clinic**, 2017 WL 5475010 (Ark. App., November 15, 2017).

## Forensic Nursing: Nurse's Hearsay Testimony Accepted Against Domestic Violence Perpetrator.

A sixty-three year-old man was convicted of attempted strangulation and domestic violence with traumatic injury to his live-in significant other.

He appealed his conviction on the grounds that the victim's statements were admitted into evidence against him in the form of hearsay statements to a forensic nurse who interviewed her two days later.

The Court of Appeals of Idaho ruled the trial judge was correct to overrule the perpetrator's objection to the victim's hearsay statements to the nurse and allowed his conviction to stand.

Things patients say to nurses, physicians and other caregivers for medical purposes are deemed inherently reliable and thus are not excluded from evidence on the grounds of hearsay.

***The rules of evidence contain an exception to the hearsay rule for statements made to a nurse, physician or other healthcare provider for purposes of medical evaluation and care.***

***On the other hand, statements to law enforcement are hearsay and are generally not admissible in evidence.***

***The things this victim said to the nurse were for purposes of medical care.***

COURT OF APPEALS OF IDAHO  
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On the other hand, things victims say to law enforcement may or may not be reliable, so such statements are disallowed in court on grounds of hearsay. The victim generally must testify in person even if a statement is already on record with law enforcement.

The Court acknowledged that a victim's statement to a forensic nurse who specializes in interviewing, treating and counseling victims of domestic violence at the local Family Advocacy and Education Services may serve dual medical and legal purposes.

In this case the victim came in and asked for an evaluation of her face and neck pain days after the assault, not to report her boyfriend, which gave her statements to the nurse a reliable footing as things said for medical purposes. **State v. Hilterbran**, 2017 WL 5474489 (Idaho App., November 15, 2017).