

Skin Care: Lack Of Documentation Bolsters Patient's Case.

The sixty-two year-old patient developed decubitus ulcers on his buttocks while in the hospital recovering from hip replacement surgery.

He sued the hospital and four nurses who were hospital employees along with a fifth nurse who was the employee of a nurse staffing agency.

The hospital and the nurses defended by claiming they did turn the patient every two hours on schedule and that skin ulcers can develop even when patients are turned regularly as they should be.

The patient's lawyers, however, were reportedly able to point to the fact there was no documentation in the chart whatsoever of the patient ever being turned.

The jury in the Superior Court, Camden County, New Jersey returned a verdict totaling \$1,750,000 and delineated specific percentages to be paid by the hospital itself and each of the individual nurses. ***Pacitto v. Kaufman***, 2010 WL 2894797 (Sup. Ct. Camden Co., New Jersey, June 23, 2010).

Patient In Shock: Nurses Should Not Have Transferred.

The Court of Appeals of Texas accepted the expert testimony of a nurse and a physician who were highly critical of the decision of the nurses caring for an elderly patient in the hospital to call an ambulance to have her taken to another hospital, rather than notifying her physician of her condition.

The patient's physician, if he had been informed by the patient's nurses what was going on, could have stabilized her with vasopressors and IV fluids to raise her blood pressure while tests were done to determine why she was in shock, most likely from internal bleeding whose source needed to be pinpointed with an angiogram and corrected. ***Tenet Hospitals v. Barnes***, __ S.W. 3d __, 2010 WL 2929520 (Tex. App., July 28, 2010).

Freedom Of Speech: Nurse's Statements Not Protected.

A registered nurse employed by the state department of corrections brought up the issue in a staff meeting that other nurses were continuing to dispense inmates' mental health medications under physicians' orders that had expired.

The nurse insisted the other nurses should, instead, schedule their inmate patients to see the prison psychiatrist or at least communicate with the psychiatrist to make sure that the patient should still be on the medication and obtain a current order.

The nurse was written up and eventually was terminated for unrelated incidents of alleged inappropriate interaction with other staff. She sued the department, claiming that she was really terminated in retaliation for voicing her concerns about inmates' expired medication orders.

An employee of a public agency has the right to speak out on matters of public concern and cannot suffer employer retaliation for doing so.

However, matters that are strictly within the scope of the employee's job responsibilities are not matters of public concern.

UNITED STATES DISTRICT COURT
PENNSYLVANIA
July 21, 2010

The US District Court for the Middle District of Pennsylvania ruled that even if that was the reason behind her termination, Freedom of Speech applies only when an individual is speaking out on a matter of public concern. A nurse communicating with coworkers on the job about day-to-day patient-care issues is not speaking out on a matter of public concern and cannot sue for violation of a Constitutional right. ***Cicchello v. Beard***, __ F. Supp. 2d __, 2010 WL 2891523 (M.D. Pa., July 21, 2010).

Ativan Overdose: Nurse Was On Probation For The Same Violation Of Care Standards.

A nurse's license was placed on probation in one state for administering Ativan to a patient without a physician's order. Rather than complete the terms of his probation he moved to another state and found employment as a nurse.

Once hired he revealed the situation with his license to his nursing director but he was not terminated or reported to that state's or the first state's board of nursing. In fact, his director asked him to follow her to her new job at another hospital where she made him a charge nurse.

He again gave Ativan to a patient whose allergy to that medication was clearly and thoroughly documented in the chart and in the hospital's medication records, without a physician's order, and the patient died.

The hospital failed in its legal duty to hire nurses that are competent and fit for employment.

The hospital hired the nurse knowing he was on probation in another state and had not fulfilled the conditions of his probation.

No precautions were taken to ensure the nurse would not commit the same violations again.

COURT OF APPEALS OF TEXAS
July 28, 2010

In a very complicated opinion the Court of Appeals of Texas upheld a \$1 million-plus verdict in favor of the family for the hospital's negligence. The hospital was responsible for the nurse manager's decision to hire a nurse on probation to practice at the hospital and thereby allow him to commit the very same offense again. ***THI of Texas v. Perea***, __ S.W. 3d __, 2010 WL 2952149 (Tex. App., July 28, 2010).