LEGAL EAGLE EYE NEWSLETTER

August 2003 *For the Nursing Profession* Volume 11 Number 8

Nurse Switched Patient's Medication: Court Says Patient Can Sue For Battery.

Before coming in for her MRI the patient phoned the hospital and spoke with a nurse. The patient explained she had a painful back condition that would not allow her to lie still during her MRI and she would need medication. She told the nurse she would accept only Demerol or morphine for pain control.

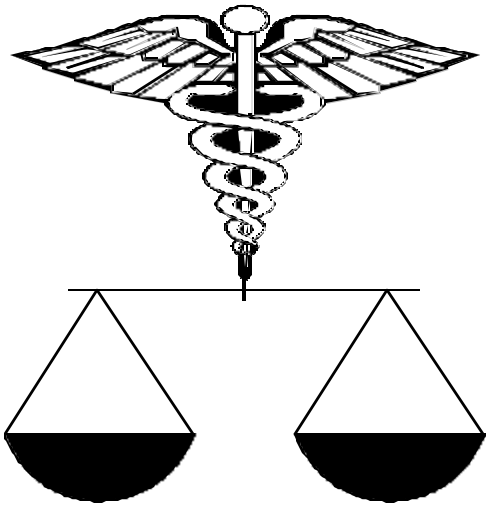
The nurse assured her only Demerol or morphine would be used and the patient came in for her MRI.

When she got to the hospital the nurse assigned to care for her told her fentanyl would be used and explained it was similar to Demerol and morphine.

An argument ensued in which the patient, the Supreme Court of Arizona pointed out, expressly told her nurse three times she would not accept anything but Demerol or morphine and insisted the nurse contact her physician to discuss her medication.

The nurse told her her medication had been changed to morphine. With this reassurance from the nurse the patient agreed to go ahead.

Then the nurse deliberately turned around and gave the fentanyl. It led to serious complications including severe headache, projectile vomiting, breathing difficulties, post-traumatic stress disorder and vocal cord dysfunction.



A nurse is legally liable to a patient for common law civil battery when the nurse performs a medical intervention upon the patient without the patient's consent.

Consent to be given an injection of one medication is not considered consent to be given another medication substituted by the nurse against the patient's express wishes.

SUPREME COURT OF ARIZONA
June 16, 2003

Patient's Lawsuit for Civil Battery

The patient sued the medical imaging corporation, the nurse's employer who gave the fentanyl, for common law civil battery and lack of informed consent. The court ruled that informed consent was not the issue, but the nurse did commit a civil battery for which the patient could sue.

With some exceptions, true emergencies and court-ordered treatment, any medical intervention performed upon a patient without the patient's express consent is considered a common-law battery. Battery is a wrongful act for which the patient can file a civil lawsuit for damages.

Patient consent is a defense to a patient's lawsuit for battery, but only to the extent the healthcare provider has stayed strictly within the parameters of the consent the patient has given.

Consent to an injection or to an injection of a drug in a particular class of medications does not extend to an injection of a different drug which the patient has expressly rejected.

The court did not go into the issue whether the physician actually did or did not approve the nurse's substitution of the medication. **Duncan v. Scottsdale Medical Imaging, Ltd., 70 P. 3d 435, 2003 WL 21382470 (Ariz., June 16, 2003).**

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Elopement: No Redirection, Court Says Nursing Facility Neglected A Vulnerable Adult.

A sixty year-old woman had a history of bipolar disorder and schizophrenia going back more than twenty years. She was under court guardianship.

Her guardian had her admitted to a nursing facility that offered both skilled nursing care and nursing-home boarding services. The plan was to admit her as a boarding resident on a trial basis rather than a skilled nursing patient, with the treatment goal of enabling her eventually to develop the ability to live in a more independent placement setting.

The plan did not work. She stopped taking her psych meds and became paranoid and aggressive. She had to be hospitalized in an inpatient setting and was returned to the nursing facility as a skilled-nursing patient who was to receive close supervision of her medication compliance.

She eloped three times, each time dressing for the occasion and announcing an intention to leave. Each time she left her verbalized intention was highly inappropriate, like saying she had to take her now-adult daughter to school at 1:30 a.m., or she was going to (Christian) church on Friday rather than Sunday. Each time 911 was called, the police located her and returned her to the facility.

The police reported the facility to the state Department of Health. The Department investigated and sustained charges of neglect of a vulnerable adult. The Court of Appeals of Minnesota agreed with the Department, in an unpublished opinion.

Court Sees Legal Duty
To Try To Redirect the Resident

The court ruled the facility's nurses had a legal duty to attempt to redirect the patient to try to keep her from leaving.

She was not under court-ordered lock-down, so the staff could not physically restrain her, lock her in her room or lock her in the building, but they still had a duty to try to use their skill and finesse to keep her on the premises. **River Oaks Health Care Center v. Dept. of Health, 2003 WL 21448959 (Minn. App., June 24, 2003).**

When a vulnerable adult whose capacity for rational choice is impaired announces an intention to make a choice that will subject her to a potentially harmful situation, the legal duty a caregiver is required to satisfy overrides the notion that the adult's right of choice is unfettered.

The facility had a duty to act when the resident announced her intention to elope. Instead, the facility shifted its responsibility to the police just to go and find her and return her.

Between her elopement to places unknown and her apprehension by the police her safety was in jeopardy.

The facility had a legal duty at least to attempt proper and legally permissible preventive steps.

Redirection is a know nursing-home practice. The success of redirection efforts is not always predictable but the outcome of failing to try to redirect is predictable: the vulnerable adult will leave the facility and, if not immediately apprehended, likely jeopardize her own safety.

COURT OF APPEALS OF MINNESOTA
UNPUBLISHED OPINION
June 24, 2003

Elopement: Court Upholds Patient's Suit.

The Supreme Court of Wisconsin has basically affirmed the Court of Appeals' ruling that a patient who attempts to elope from a psych facility is not barred from suing the facility for negligence for self-inflicted injuries. See *Elopement Attempt: Court Says Psych Patients Have Special Legal Relationship With Hospitals,* Legal Eagle Eye Newsletter for the Nursing Profession (10)1, Jan. '02 p. 3.

The patient gets her day in court but it is her burden of proof to show exactly how the facility failed her.

SUPREME COURT OF WISCONSIN
July 1, 2003

She was still on a locked psych ward after a suicide attempt, but the psychiatrist had lifted the close suicide watch two days earlier. She was technically a voluntary patient at the time in question.

The patient was fully dressed and had her purse with her. She was seen going to the pay phone on the unit, taking slips of paper out of her purse and making phone calls. The staff should have picked up on obvious clues she was planning to leave.

She had already gone into another patient's room and seen that the window air conditioner was loose, offering her the chance to climb out the third-floor window on a rope of bed sheets she had tied together. This first came to the staff's attention after the fact when they interviewed the other patient.

The Supreme Court of Wisconsin ruled in general terms that a psych facility owes a legal duty, even to a voluntary patient, to pick up on clues of elopement and to take preventive steps consistent with the patient's legal status in the hospital.

In general terms a psych patient can sue for self-inflicted injury, like falling out of a window trying to elope, if the facility neglected its responsibilities. **Hofflander v. St. Catherine's Hospital, Inc., __ N.W. 2d __, 2003 WL 21499928 (Wis., July 1, 2003).**

Emergency Psych Hold: Patient In Restraints Must Be Constantly Supervised, Court Rules.

The patient had been under psychiatric care. He was brought to the emergency department of a county hospital on the order of a designated professional because he was mentally ill and was conducting himself in a manner likely to result in serious harm to himself or others.

On arrival in the emergency department he was assessed by a nurse. The nurse placed him in wrist restraints until he could be seen by a physician.

The nurse made the decision to apply restraints without a physician's order because the patient was being committed involuntarily, appeared intoxicated and was threatening to leave.

Nurse Applied Wrist Restraints
No Physician's Order

According to the New York Supreme Court, Appellate Division, the nurse's judgment at this point was sound and she was legally justified in starting restraints without a physician's order.

County hospital policy and state law permitted the use of restraints in emergency situations when a physician was not immediately available, to the extent necessary to prevent the patient from injuring himself or others in the judgment of the most senior non-physician staff on duty.

Hospitals have a legal responsibility to protect their patients from injury, even self-inflicted injury. The responsibility is measured by the nature and extent of the patient's mental illness as understood by the hospital's professional staff.

There is no responsibility in general to monitor patients constantly twenty-fours hours a day.

However, it is very different when a patient is being held in restraints in an emergency situation. Such a patient is entitled to constant supervision.

The phrase constant supervision in this context means the patient must be kept in view continuously so that something can be done immediately if the patient tries to elope or harm himself.

This patient was there for emergency psych care, depressed and intoxicated.

NEW YORK SUPREME COURT
APPELLATE DIVISION
July 3, 2003

Constant Supervision Required
During Emergency Restraint

However, the court faulted the hospital for not providing constant, continuous one-on-one supervision as required by hospital policies and state law when a psych patient is being restrained in an emergency awaiting a physician's exam.

The court ruled the nurse was wrong to interpret the phrase "constant supervision" as meaning only that the patient must be kept where he can be seen. On the contrary, one-on-one direct observation is required in this context.

Patient Injured Jumping From Balcony
Hospital 65% at Fault

As a general rule hospitals have the legal duty to prevent patients from inflicting harm on themselves. On the other hand, hospitals are not automatically liable any time a patient commits self-harm. Legal liability is a case-by-case judgment after the fact based on the appropriateness of the interventions that were ordered and carried out in light of how realistically and competently the nurses, physicians and others assessed the patient.

This patient, while unobserved, removed his own wrist restraints and jumped from a hospital balcony either trying to elope or trying to harm himself.

The jury's verdict held the hospital 65% responsible and the patient himself 35% responsible for his injuries. A disturbed mental patient can legally be held responsible for his own negligent acts, the court pointed out in upholding the jury's ruling. **Marvel v. County of Erie, __ N.Y. S.2d __, 2003 N.Y. Slip Op. 15822, 2003 WL 21513056 (N.Y. App., July 3, 2003).**

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Nursing Director Challenges Policy Nurses Not To Contact Family Members: Court Upholds Suit For Retaliatory Discharge.

The Court of Appeals of Ohio recently upheld a lawsuit filed by a former director of nursing against her former employer a nursing home.

The lawsuit centered on the nursing home's policy that nurses, from the director of nursing down the line, were not to contact the family of any nursing home resident without obtaining prior approval from the facility's administrator.

The director of nursing believed the policy was abusive and a violation of the state's nursing home residents' bill of rights law. After she complained to a senior-citizens advocacy group and to the state Department of Health she was fired.

The court acknowledged an affidavit from another nursing home administrator that a no-contact policy would be irrational and unfounded and would prevent nurses from properly doing their jobs.

However, the wisdom of the nursing home's no-contact policy was not the point. The issue was retaliation.

Retaliation Prohibited

The nursing home residents' bill of rights law protects whistleblower caregivers from employer retaliation for reporting what is or is believed to be abuse or neglect to the state Department of Health.

Promissory Estoppel

An additional wrinkle in this case was how the court applied the legal rule of promissory estoppel.

The administrator assured the director of nursing she would be safe from repercussions if she spoke freely with her about her concerns with the no-contact policy and if she gave her the details of her complaints to the advocacy group and the Department of Health.

Then the administrator broke her word and turned around and fired her. That was a wholly improper breach of promise, the court ruled. **Dolan v. St. Mary's Memorial Home, 2003 Ohio 3383, 2003 WL 21472746 (Ohio App., June 27, 2003).**

The nursing home residents' bill of rights law gives nursing home residents the right to be free from abuse and to be treated with courtesy and respect.

The bill of rights law provides nursing home residents with legal remedies and procedures when their rights have been violated.

The bill of rights law not only encourages but actually requires licensed healthcare professionals to report abuse of nursing home residents to the state Department of Health.

The law prevents retaliation against those who report a violation of a resident's rights.

An employer accused of retaliation can respond by showing a non-retaliatory motive for firing an employee. However, it is a circular argument for the nursing home administrator to claim the director of nursing was fired for refusing to promise not to contact family members without permission if the no-contact policy was abusive.

COURT OF APPEALS OF OHIO
June 27, 2003

Misconduct: Firing Upheld For Abusive, Threatening Language.

A certified nurse's aide was warned verbally, warned in writing and then terminated for using abusive language in arguments with supervisors and for threatening co-workers with bodily harm.

The Court of Appeals of Minnesota upheld the firing, in an unpublished opinion, seeing conduct that fell within the legal definition of employee misconduct

Employee misconduct is any intentional conduct, on or off the job, that disregards the standards of behavior that an employer has the right to expect of the employee or that disregards the employee's duties and obligations to the employer, or

Negligent or indifferent conduct, on or off the job, that demonstrates a substantial lack of concern for the employment.

COURT OF APPEALS OF MINNESOTA
UNPUBLISHED OPINION
July 1, 2003

For example, the aide responded to criticism from a supervising nurse by stating, "Don't mess with me. I will call my boyfriend and he will deal with you." She yelled at another that she was going to, "… take it downstairs and finish her off."

The court pointed out this was intentional misconduct that clearly violated the standards that an employer is entitled to expect from an employee and the misconduct continued after the employee had been warned it would not be tolerated. **Thomas v. St. Paul's Church Home, 2003 WL 21499917 (Minn. App., July 1, 2003).**

Agency Nurse: Discrimination Suit Against Agency Client.

A nurse worked for a correctional healthcare corporation with the contract to provide inmate healthcare in the county jail. She sued the county jail for sexual harassment. The threshold question was whether she was a county employee, as only employees, not independent contractors, are covered by the state's employment discrimination law.

State and Federal employment discrimination laws protect employees from discrimination. The laws do not apply to independent contractors. They are not employees.

However, if the agency's client rather than the agency itself controls and supervises the agency's employee in the performance of work for the agency's client, the client is considered to be the employer for purposes of the anti-discrimination laws.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
June 30, 2003

The Superior Court of New Jersey, Appellate Division, ruled she was not a county employee and could not sue.

She was paid by the agency and designated as an independent contractor in the agency's contract with the county. However, those were not controlling factors.

Unlike many agency nurses, it was the physicians and nursing supervisors in the agency corporation, not officials in the client county jail, who controlled and supervised her nursing work. **Chrisanthis v. County of Atlantic, __ A. 2d __, 2003 WL 21487751 (N.J. App., June 30, 2003).**

Understaffing: Nurses Fired Over Complaints, Court Finds No Right To Sue Under Federal False Claims Act.

The Federal False Claims Act (FCA) allows the Federal government to institute legal proceedings against parties defrauding the Federal government.

Private individuals are authorized by the FCA to file suit in the name of the government against parties who have defrauded the Federal government.

The FCA also outlaws employer retaliation. An employee who investigates or reports employer fraud can sue if he or she is the victim of employer retaliation.

False Medicare and Medicaid claims are covered by the FCA. An employee who investigates or complains of false claims cannot be retaliated against.

However, complaints about nursing staffing levels that may affect future certification do not involve false or fraudulent claims against the government and are not covered by the anti-retaliation language of the FCA if the employer has not submitted any false information to receive reimbursement.

UNTED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
June 24, 2003

A staff registered nurse who was active in the nurses' union local began a campaign to correct what she and others believed was a serious problem of nursing understaffing at the hospital.

After speaking with representatives of the state Department of Public Health, she and other nurses began to articulate their complaints by looking for, noting and bringing to their supervisors' attention delays in patient care they attributed to the staffing situation, having been advised by the state Department of Public Health that unacceptable delays in patient care could affect the hospital's right to continue to participate in Medicare and Medicaid.

The nurse and others went to the state legislature to testify in committee hearings in support of a bill that would give nurses a role in determining nursing staffing levels and impose penalties on facilities for understaffing as determined by the nurses.

The nurse and others also circulated a petition, signed by one hundred sixty nurses at the hospital, demanding the understaffing situation be rectified.

The nurse was fired, on grounds she was attempting to organize an illegal work stoppage. She sued, citing the US Federal False Claims Act and common-law principles of wrongful discharge. The US District Court for the Northern District of Illinois dismissed her lawsuit.

No False Claims
No Retaliation Lawsuit

Only complaints over actions that would be illegal if proven are covered by the FCA and state whistleblower laws. The hospital did not submit any false or fraudulent information to obtain Medicare or Medicaid reimbursements. The nurses were not complaining of illegal activities by the hospital. It is not illegal for a hospital to disagree with its nurses over staffing levels or to downsize unnecessary employees. **Robbins v. Provena Hospitals, Inc., 2003 WL 21468588 (N.D. Ill, June 24, 2003).**

Stillborn Fetus Mishandled By Nurses: Court Dismisses Case, Finds No Intentional Infliction Of Emotional Distress.

A pregnant woman began having severe cramps at ten and one-half weeks. Her husband put her in the car and began the trip to the hospital.

On the way she bled very heavily in the car. Her clothing and shoes became soaked with blood even though she had a towel between her legs during the trip.

At the hospital the emergency room nurses had her remove her blood-soaked clothing. The woman testified later that she told the nurse she believed she had passed something big while still in the car and it was still in her pants.

The nurse removed several large blood clots from her legs and put them in a bowl for the physician to examine. She continued to pass blood clots and the nurse did the same thing with them. The physician did a D&C and discharged her home.

The nurses assumed she did not want her clothing back, but asked her anyway. She said she did want it back, so the nurse placed her clothing in a white plastic bag and gave it to her at discharge.

When she got home she took her blood stained clothing from the plastic bag to wash it. In the laundry room at home she discovered the stillborn fetus in her blood-soaked pants.

No Intentional Infliction of Emotional Distress / Case Dismissed

While acknowledging the severe shock and emotional distress she must have felt the Court of Appeals of Georgia dismissed her lawsuit against the hospital.

The court commented it may have been negligent for the nurse not to examine her clothing before bagging it. However, if a negligent individual has not inflicted any actual physical injury the negligent individual cannot be sued for emotional distress. By definition a negligent act is not done intentionally even if it does cause shock or distress. **Roddy v. Tanner Medical Center, Inc., __ S.E. 2d __, 2003 WL 21525268 (Ga. App., July 8, 2003).**

There is no evidence the emergency room nurses or other hospital personnel who cared for the mother when she came in having a miscarriage knew the stillborn fetus was in the mother's clothing they bagged and returned to her.

Both parents did experience a horrific shock and lasting emotional distress, and that is part of what is necessary to sue for intentional infliction of emotional distress, but the most important element of their lawsuit is lacking.

Negligence is not intentional. Negligence is not the same as deliberate, malicious, wanton or reckless disregard of the rights of others.

If the defendant has inflicted no direct physical injury on the victim, the victim can sue for nervous shock or fright only when the act which caused the shock or fright was committed intentionally, deliberately, maliciously or wantonly, that is, with an utter disregard of the consequences upon others.

COURT OF APPEALS OF GEORGIA
July 8, 2003

Sepsis: Court Finds No Fault With Nurses' Or Physician's Care.

The patient's next of kin sued his family practice physician claiming negligence caused the patient's death which the family practice physician himself attributed to sepsis. The Court of Appeals of Ohio agreed with the dismissal of the case, finding no negligence.

The standard of care in a skilled nursing facility is for vital signs to be taken twice daily by the nurses.

The standard of care in a skilled nursing facility is for the patient actually to be seen at least once a month by the physician unless the nurses detect a problem that requires the patient to been seen immediately.

COURT OF APPEALS OF OHIO
June 27, 2003

The eighty-eight year-old patient was admitted to a skilled nursing facility from the hospital. He had multiple medical problems including hypothyroidism for which he was taking thyroid hormone, depression and early prostate cancer.

The court said the nurses followed the legal standard of care in a skilled nursing facility taking his vital signs twice daily. His a.m. temp and blood pressure were low and he was sweating profusely, so the nurse called the physician. They believed it was an overdose of thyroid, so the physician ordered a blood draw to test for that.

His p.m. temp and BP were much lower. The nurse phoned the physician, who said to have him taken to the E.R. He died at the hospital the next morning. **Weiner v. Kwait, 2003 Ohio 3409, 2003 WL 21487995 (Ohio App., June 27, 2003).**

Delivery Of Controlled Substances: Nurse Prosecuted For Falsified MAR's.

A nurse working in a nursing home was charged with illegal processing of drug documentation in violation of the state's controlled-substances law. The court record implied but did not actually state that she was diverting narcotics.

The state's controlled substances law requires detailed documentation of the sale and delivery of drugs.

The nurses did not always directly administer residents' medications.

Sometimes the nursing home was only a go-between from the pharmacy that filled residents' physicians' prescriptions to the residents who took their own meds.

However, even when medications are given to residents to take themselves, full compliance with the documentation requirements of the controlled substances law is necessary.

SUPREME COURT OF OHIO
June 18, 2003

The Supreme Court of Ohio ruled that controlled substances given to nursing home residents to take on their own do come under all the same legal documentation requirements as medications directly administered by the nurses. **State v. Peeler, 99 Ohio St. 2d 151, 789 N.E. 2d 624, 2003 Ohio 2903 (Ohio, June 18, 2003).**

Latex Allergy: Court Looks For Nurse's Last Injurious Exposure For Work Comp.

The date of injury can be a critical issue in occupational disease cases.

The date of injury determines whether the claim was filed on time and which one of many past employers is responsible for making worker's compensation payments.

A nurse's latex allergy is an example of an occupational disease that brings up these legal issues.

Where an occupational disease results from continual absorption of small quantities of some deleterious substance from the environment of the workplace over a considerable period of time, an afflicted employee can be held to be injured only when the accumulated effects of the substance manifest themselves in disability.

That is the point in time when the employee becomes disabled and entitled to compensation.

The statute of limitations to file for worker's compensation begins to run from the time the employee is partially or wholly disabled by an occupational disease.

SUPREME COURT OF NEBRASKA
July 11, 2003

A nurse's latex allergy may be considered an occupational disease entitling the nurse to worker's compensation.

However, due to the nature of the disease, the legal issues can be very complicated in assigning responsibility to one particular employer for payment of benefits and for determining if the nurse has filed a claim for benefits on time.

In a recent case the Supreme Court of Nebraska ruled a nurse's latex allergy was related to her employment and she was entitled to worker's compensation benefits.

"Last Injurious Exposure" Marks Maturation of Work Comp Claim

For more than twenty years she was exposed to latex gloves in the workplace and had problems with her hands breaking out. A trip to the emergency room for an anaphylactic reaction at the hospital where she worked marked her "last injurious exposure." That was the all-important date her claim fully matured and soon after which it had to be filed or it would be lost. **Morris v. Nebraska Health System, 266 Neb. 285, __ N.W. 2d __, 2003 WL 21555314 (Neb., July 11, 2003).**

Editor's Note: The essential point of this article may become clearer by comparing it with *Latex Allergy: Court Looks At Timing Of Occupational Exposure versus Filing Of Worker's Comp Claim,* Legal Eagle Eye Newsletter for the Nursing Profession, (11)3, Mar. '03, p.4.

A nurse had a similar anaphylactic reaction on the job at the hospital. Her physician attributed the anaphylaxis to long-term exposure to latex on the job and told her to quit her job at the hospital and find a work situation where she would not be exposed to latex.

She tried unsuccessfully to work in one and then in another doctor's office and then had to quit nursing.

The court ruled it was not proper for the nurse's worker's comp claim for a latex allergy, an occupational disease, to be filed against either doctor's office.

LEGAL EAGLE EYE NEWSLETTER
For the Nursing Profession

Family Member Faints, Falls, Is Injured Watching IV Insert: Court Says Nurse, EMT Not Legally Liable For Negligence.

A patient had to be rushed to the hospital by ambulance for emergency abdominal surgery. Her sister was with her when she arrived at the hospital.

In the hospital's emergency department the EMT who brought her in attempted several times unsuccessfully to insert an IV. The patient's sister watched as her sister moaned and wept from the pain the EMT was causing her.

Finally the emergency-room nurse took over and was able to get the needle into a vein on the first try.

While the nurse and the EMT were working on the patient the sister twice told the nurse and the EMT she thought she, the sister, was about to pass out. They heard what she said but did nothing to help her. The sister lost consciousness, fell to the floor, broke her jaw, chipped some teeth and sustained facial lacerations.

The sister sued the hospital, the ambulance company, the EMT and the nurse.

The Supreme Court of Connecticut threw out the sister's lawsuit. The court ruled that harm to the sister being foreseeable, in and of itself, did not impose a legal responsibility on the EMT or the nurse for the sister's safety.

It is a public-policy decision whether a legal duty should be imposed and damages assessed for violation of the legal duty. Public policy in a situation like this, the court reasoned, should be to permit medical personnel attending to an emergency case to focus their undivided attention on their patient.

It would not be prudent, the court ruled, for the law to impose an extra responsibility on emergency medical personnel to worry about bystanders, even family members with a legitimate interest in the patient's welfare, who voluntarily choose to witness medical interventions that might be hard for untrained persons to view without being affected. **Murillo v. Seymour Ambulance Ass'n., Inc., 264 Conn. 474, 823 A. 2d 1202, 2003 WL 21380442 (Conn., June 24, 2003).**

Substandard Aseptic Technique: Court Says Patient Can Sue Hospital For Staph Infection.

Some time after a three-day hospital stay for disc surgery the patient was diagnosed with pyoderma gangrenosum. The patient sued the hospital for negligence, claiming her condition was precipitated by a Staph infection she contracted at the hospital as a direct result of substandard aseptic technique by the hospital's staff nurses in administering IV's post–surgery.

The legal issue was cause-and-effect. That is, was the evidence strong enough to link the nurse's substandard aseptic technique to a Staph infection which in turn triggered the pyoderma gangrenosum?

The Court of Appeals of Georgia ruled the evidence was strong enough at least for the case against the hospital to go before a civil jury for a ruling.

Infection is rare following IV therapy if proper aseptic technique is used.

The patient and her husband testified there were numerous breaches of aseptic technique by the hospital's nurses.

The patient's arm was red and swollen and her temp was 100° when discharged.

It is reasonably certain she got the Staph infection in the hospital.

COURT OF APPEALS OF GEORGIA
June 17, 2003

A nurse practitioner testified as an expert witness on nursing standards of practice that it is below the standard of care for nurses not to wash their hands before attempting to insert an IV needle, to reinsert a needle or catheter that has come out and touched the patient's skin, to reconnect tubing that has fallen on the bedding, not to wear gloves, etc.

The patient's arm was red and swollen and she had a fever when she was discharged, signs of infection.

Infection is rare when proper IV aseptic technique is used. The Court of Appeals accepted expert medical testimony setting up at least a plausible link between the nurses' negligence and a Staph infection in their patient. **Knight v. West Paces Ferry Hospital, Inc., __ S. E. 2d __, 2003 WL 21384585 (Ga. App., June 17, 2003).**