

## Patient Unable To Void: Nurse Must Monitor and Re-Catheterize, Court Rules.

**W**hen a patient does not void urine for a twenty-four hour period after a urinary catheter, inserted during surgery, has been removed, it falls beneath accepted standards of nursing practice if the nurses caring for the patient fail to notice this fact and to fail to take corrective action, according to the Supreme Court of North Carolina.

According to the court, nurses caring for a post-operative patient whose urinary catheter has been removed must monitor the patient closely to make certain that the patient has begun to void appropriate quantities of urine. If not, the standard of care for nursing in this situation requires reporting the situation to the physician and taking steps to see that the patient is re-catheterized to be able to void.

The court did not say that nurses may re-catheterize a patient without an explicit one-time or p.r.n. order from the physician.

If the patient suffers bladder distention, dehiscence of sutures in the bladder wall, leakage of urine, and the need for additional corrective surgery, the nurses who failed to monitor the patient's urinary output, or lack thereof, and their employer, can be sued for professional negligence. Hor-ton vs. Carolina Medicorp, Inc., 472 S.E. 2d 778 (N.C., 1996).

### \*A note to librarians:

- Volume 4 of this newsletter will contain issues numbered 13, 14 and 15, for Oct., Nov. and Dec., 1996.
- Starting with Jan., 1997 our issue numbers will correspond to the calendar months.
- Jan., 1997 will be Volume 5, Number 1.

## Same-Sex Caregivers: Court Upholds Male Aide's Gender Discrimination Claim.

*It is unlawful gender discrimination in employment for a healthcare employer to have a hard and fast policy saying that female patients automatically get only female caregivers, while both males and females are assigned to care for male patients.*

*A healthcare employer can honor a specific request from a patient for a same-sex caregiver, without violating the laws against gender discrimination, but only if the care to be given involves issues of intimate personal privacy, such as a patient's preference not to have an opposite-sex caregiver assisting with toileting or cleansing the patient's perineal area.*

*Still, there must be a request from the patient for a same-sex caregiver, rather than a blanket policy excluding opposite-sex caregivers from giving even the most personal care to patients.*

*If the patient's personal privacy is not an issue, honoring a patient's request for a same-sex caregiver can lead to legitimate charges of gender discrimination.*

SUPERIOR COURT OF NEW JERSEY,  
APPELLATE DIVISION, 1996.

**T**he Superior Court of New Jersey, Appellate Division, recently upheld a male home health aide's gender discrimination lawsuit against his former employer's policy of allowing both male and female aides to care for male clients, while only female aides were assigned to care for female clients. The court ruled that an employer's policy of completely excluding males from caring for females is unlawful gender discrimination.

A healthcare employer is permitted to a limited extent to honor specific requests from patients of either sex for same-sex caregivers. These requests may be honored if, and only if, the care to be given is of a sensitive personal nature. The court gave examples where a patient's request for a same-sex caregiver can be honored: assisting the patient to the commode, cleansing the patient's perineal area and caring for a urinary catheter.

Although not stated in so many words, the court probably would not approve honoring a patient's request for a same-sex caregiver to pass medications, change a dressing, hang an IV, assist with ambulation, or other patient care which does not involve intimate personal privacy.

The court was particularly offended by the home health agency's policy that male clients were assigned male or female caregivers, with the clients having no apparent choice, while female caregivers only were automatically assumed to be appropriate for female clients. Spragg vs. Shore Care, 679 A. 2d 685 (N.J. App., 1996).

See *Gender-Based Shift Assignments Upheld By Court Over Charge Of Discrimination.*, Legal Eagle Eye Newsletter for the Nursing Profession, (4)9, Jun. '96, p. 1 (A male and a female needed with adolescent psych patients.); *Male Nurse Cares For Female Patient Against Her Wishes: Hospital Liable.*, Legal Eagle Eye Newsletter for the Nursing Profession (4)1, Oct. '95, p.1 (Patient handled by male in surgery despite her religious objections.)