

Charting Not Specific: Hospital Not Able To Defend Against Malpractice Allegations.

During a lengthy stay in the hospital for medical and surgical treatment, the patient developed a foot drop. The foot drop was due to contracture of the Achilles tendon, a complication sometimes to be expected if adequate measures are not taken to compensate for a patient's prolonged immobility, according to an opinion recently handed down by the Court of Appeals of Texas.

The patient and her husband sued the hospital for negligence. The nurses and physical therapists who cared for the patient were employees of the hospital. The treating physicians were also named as defendants in the suit.

The hospital, in its defense, submitted affidavits to the court from a nurse and from a physical therapist who were retained after the fact to review the patient's chart.

As to the nursing care the patient had received, the hospital's affidavit stated:

"The standard of care for treating a critical care patient such as ... is (1) to assess the patient; (2) to implement and carry out physicians' orders; and (3) to prioritize care and treatment objectives. The nurses assigned to ... properly assessed her condition and charted her pro-

Saying that a patient was monitored appropriately is useless without chart notes of the specific actions that constituted monitoring of the patient's condition.

To defend in court against professional malpractice, it is not good enough to generalize about the standard of care having been met.

An expert witness must be able to find in the chart what specific examinations and treatments were performed.

The affidavit of the hospital's nursing expert witness contained nothing specific from the chart. The affidavit did not prove that the hospital had followed the legal standard of care.

COURT OF APPEALS OF TEXAS, 1997.

gress, beginning on the day she was admitted to the hospital and continuing throughout her entire stay. The nurses followed the orders delivered to them by [the patient's] treating physicians and performed their nursing obligations consistent with these orders. The nurses performed their duties in an organized fashion, prioritizing their care and treatment objectives and giving due emphasis to task having the highest priority, while performing both high-priority and low-priority tasks in a timely and appropriate manner."

The lower court judge took this affidavit as adequate proof the hospital's nurses had not been negligent, and the lower court threw out the case. The Court of Appeals overruled the lower court and reinstated the case.

The Court of Appeals ruled the lower court judge was in error for failing to recognize that the hospital's affidavit about the nursing care the patient received was purely conclusory. That is to say, the statement of what the nurses had done was overly generalized to the point it was completely useless to any court as the basis for a ruling in favor of the hospital.

Without specifying when or how, the hospital's affidavit merely stated that the nurses assigned to the patient "properly assessed her condition." The hospital's affidavit made no reference to any specific charting addressing the monitoring, care and treatment necessary to prevent the specific condition, Achilles tendon contracture, over which the suit was filed, apparently because no such specific charting was anywhere to be found in the patient's voluminous medical record.

The court went on to address the specific individual responsibilities of the medical doctors, the physical therapists and the nurses. Their patient-care duties obviously are different. However, the court believed all share a common collective responsibility to monitor a patient for complications to be expected during a protracted hospitalization. **Griffin vs. Methodist Hospital, 948 S. W. 2d 72 (Tex. App., 1997).**

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