

# LEGAL EAGLE EYE NEWSLETTER

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*For the Nursing Profession*

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## Wrong Drug Ordered: Nurses Must Intervene.

A forty-six year-old man had been diagnosed and had started taking Tambocor for ventricular tachycardia two years before he came to the hospital's emergency room stating his heart rate would not slow down even though he had taken his medication. He was conscious and had no chest pain.

An EKG confirmed it was ventricular tachycardia. The ER physician ordered lidocaine and bretylium and then phoned the on-call cardiologist when those two drugs did not work.

After getting off the phone with the cardiologist the ER physician ordered 5 mg of verapamil. It was administered by an EMT working in the ER as a nursing technician.

The ER nurse and the house nursing supervisor both saw that the EMT was about to give verapamil. All three knew it was contraindicated for ventricular tachycardia because in ventricular tachycardia it can cause hemodynamic collapse, but the two nurses did nothing and the EMT went ahead.

Two minutes later the patient's blood pressure crashed and he arrested. He was revived but has permanent brain damage and no independent motor function or capacity for speech. The jury's verdict was \$13.1 million.

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***A nurse has a legal duty to refuse to act and to take it up through the nursing chain of command when the nurse has serious questions about a medication involving an extreme risk of harm.***

***A nursing supervisor must intervene when a nurse complains about an apparently erroneous and potentially dangerous medication order.***

COURT OF APPEALS OF TEXAS  
November 20, 2003

## Nursing Home Resident's Fall: Negligence Suit Allowed.

The sixty-two year-old resident was six feet one inch tall and weighed 310 pounds. He was developmentally disabled, with a mental age of seven years. He had lost the use of one leg from numerous strokes.

His plan of care expressly called for two aides to assist in transferring him from his wheelchair to his shower chair. Furthermore, according to his plan of care, the transfer was to be done in his room and he was to be wheeled to the shower in his shower chair, as the shower area was too narrow and confining for the two-person-assisted transfer to be done there.

Nevertheless, one aide alone attempted to transfer him in the shower room by propping him against the wall on his good leg. He fell and fractured his good leg.

The Court of Appeal of Louisiana ruled there were grounds for a negligence lawsuit. In a case like this aides have no discretion to depart from the plan of care that has been adopted by the professional nursing staff for the resident's safety. Jordan v. Stonebridege, L.L.C., \_\_ So. 2d \_\_, 2003 WL 22799032 (La. App., November 25, 2003).

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# Contraindicated Medication Ordered By Physician: Court Defines Nurses' Legal Duty To Intervene To Protect Patient (Continued).

(Continued from page 1)

The Court of Appeals of Texas looked at the case from several different angles, all of which supported the jury's substantial verdict in the patient's favor.

## Verapamil Contraindicated for Ventricular Tachycardia

According to the court, verapamil can be used in treatment of certain types of tachycardia, that is, tachycardia which can be identified as supraventricular, left or right bundle branch block tachycardia or idiopathic ventricular tachycardia. Tachycardia that is amenable to verapamil therapy can be identified with a narrow-complex PSVT pattern on EKG.

However, according to the court, the legal standard of care for nurses and non-specialist physicians is to presume that all tachycardia is garden-variety ventricular tachycardia, i.e., wide-QRS ventricular tachycardia, for which verapamil can cause devastating consequences.

Only when tachycardia is known with certainty to be non-ventricular in origin may verapamil be given. The court ruled in practical terms for nurses that means never for a ventricular tachycardia patient.

## Nursing Standard of Care ACLS Training

The emergency room staff nurse was certified in Advanced Cardiac Life Support and the house supervisor had been certified but had allowed her certification to lapse.

Both were familiar with the accepted algorithms for emergency cardiac medications, that is, that verapamil basically was always contraindicated and never to be used in ventricular tachycardia.

## EMT Working As Nursing Tech

The court faulted the hospital for allowing a non-nurse emergency medical technician to administer medications. He was the first such person to work at the hospital. He should have had a job description that expressly told him he was not to give medications, the court said.

***A nurse is responsible for knowing the rationale for and the effects of any medication the nurse is ordered by a physician to administer.***

***A nurse must question any medication apparently ordered in error prior to administering the drug.***

***If a nurse has any reason to doubt or question the care provided to a patient or believes that appropriate consultation is needed and has not been obtained, the nurse must call this to the attention of the nurse's supervisor who in turn may refer the matter to the house nursing supervisor.***

***The house nursing supervisor may bring the matter to the attention of the attending physician, medical department chair, medical chief of staff or chief operating officer if warranted and appropriate.***

***A nurse consulting with a supervisor about an order should not delay giving a medication or starting a treatment. All questions from staff nurses about medical orders must start up the nursing chain of command without delay.***

COURT OF APPEALS OF TEXAS  
November 20, 2003

## Nurse's Duty to Intervene Apparently Erroneous Physician's Order

Nurses have the legal duty to question a physician's order that is apparently erroneous and if erroneous poses a risk of immediate serious harm to the patient.

The court approved the hospital's written protocol to this effect, while holding the hospital liable nonetheless because the nurses did not follow the protocol.

A staff nurse who has reservations about a physician's order must consult with a nursing supervisor before going ahead with the order.

A nursing supervisor in a hospital setting must either reassure the staff nurse to go ahead or report the problem to the house supervisor.

According to the court, it is at the level of house supervisor that confrontation with the treating physician is best to occur, or, if that is not fruitful, the matter is to be taken over the treating physician's head up the medical chain of command.

A nurse must act without delay. It is possible the order is correct and can be explained and should be carried out. Maybe the nurse simply does not understand what is going on and it is an opportunity for a learning experience.

However, if it actually comes down to it, according to the court, a nurse has the legal and moral duty to refuse to give a medication or carry out any order from a physician the nurse knows is wrong and will likely cause serious harm to a patient.

## Failure To Intervene Nursing Negligence

As in this case, there are separate legal ground for the patient to sue for nursing malpractice, above and beyond the basic malpractice case against the physician, when a nurse knows something is wrong and goes along or does nothing to stop it. Columbia Medical Center of Las Colinas v. Bush, \_\_ S.W. 3d \_\_, 2003 WL 22725001 (Tex. App., November 20, 2003).