

Defensive Charting: Court Says Errors Do Not Prove Negligence.

The patient, a physician, sued the hospital claiming that failure of the post-op nursing staff to take her vital signs on a consistent basis led to brain damage.

The California Court of Appeals upheld the jury's verdict of no negligence by the nurses aide or the nurse.

The hospital admitted that a nurses aide made mistakes in her charting.

There is no basis in the law to equate mistakes in charting to negligent care.

CALIFORNIA COURT OF APPEALS
January 24, 2008

The problem was that the nurses aide on duty during the first post-op night overwrote some of her blood pressure entries, when she should have crossed out and initialed the incorrect entries and written the correct entries next to them or in a different space on the flow sheet.

The hospital's own nursing expert witness admitted that overwriting any chart entry is never correct procedure.

Defensive Charting Alleged

The patient's lawyers tried to argue it was a case of defensive charting, that is, charting blatantly changed after the fact to cover up substandard care, for example, abnormal BP's that necessitated but did not lead to medical follow-up.

Defensive charting raises serious suspicions but it does not prove negligence. The court looked at the situation as a whole, particularly the nurse's progress notes, and concluded the nurse and the aide were, in fact, monitoring their patient very carefully and attentively despite the aide's clerical errors. **Terajima v. Torrance Memorial Med. Center**, 2008 WL 192650 (Cal. App., January 24, 2008).