

## Discrimination: Minority Nurse Awarded Verdict.

An African-American nurse was hired as a nurse manager, then was demoted to the position of senior staff nurse after she reportedly used her management position to speak out about discriminatory practices at the facility.

The jury in the District Court, El Paso County, Texas awarded her \$513,000 in damages. That included compensation for lost income as well as injury to her professional reputation, mental anguish and emotional distress.

The lawsuit was premised on two separate violations of state and Federal laws, direct discrimination against her and retaliation against her for opposing discrimination against others.

The jury reportedly heard corroborating testimony from other facility employees that she was treated differently than other managers. **Hollis v. Texas Tech.**, 2011 WL 2626563 (Dist. Ct. El Paso Co., Texas, May 6, 2011).

## Labor & Delivery: Nurse Gave Oxygen And Pitocin At The Same Time.

A lawsuit filed in the Circuit Court, Kane County, Illinois resulted in court approval of a \$5,000,000 settlement from the hospital to be paid into a trust fund on behalf of an infant born with severe cerebral palsy.

Expert witnesses for the family were prepared to testify that the labor and delivery nurse was at fault for seeing the need to start and starting the mother on supplemental oxygen but leaving the Pitocin running at the same time.

The nurse was also faulted for delay in reporting signs of fetal distress that, if reported promptly, would have resulting in the cesarean being done sooner, in the experts' opinions. **Betancourt v. Rush System**, 2011 WL 2489019 (Cir. Ct. Kane Co., Illinois, March 17, 2011).

## Stolen Epidural: Jury Finds No Negligence.

While the patient was in labor a physicians assistant who had been newly hired at the hospital came into the room and stole her epidural pump.

He was eventually prosecuted for the crime, placed on probation and stripped of his physicians assistant credentials. He insisted he did it in order to use the pain medication to treat his dog.

The patient sued the hospital for negligent infliction of emotional distress. She had to wait while another pump was installed and was questioned by hospital security personnel in her hospital bed.

The hospital pointed out the physicians assistant's employment references were contacted and a standard background check was done before he was hired and nothing turned up raising a red flag he had criminal tendencies.

The jury in the Superior Court, Stamford-Norwalk County, Connecticut agreed that the hospital had fulfilled the full extent of its legal responsibilities and was not negligent for failing to anticipate and prevent what happened. **Loglisci v. Stamford Hosp.**, 2011 WL 2432784 (Sup. Ct. Stamford Co., Connecticut, April 27, 2011).

## Spider Bite: Family Of Nursing Home Patient Sues.

An elderly nursing home patient died after being bitten by a brown recluse spider at the facility. The family sued.

The Supreme Court of Texas pointed out that state regulations in Texas as in other states and Federal standards require a nursing home to maintain a safe, sanitary and comfortable environment and to have a regular pest-control program.

That being said, the family's lawsuit was dismissed because the Court determined it was a health-care liability case for which an expert's opinion on the standard of care was a mandatory prerequisite to filing suit. **Omaha Healthcare v. Johnson**, \_\_\_ S.W. 3d \_\_\_, 2011 WL 2586851 (Tex., July 1, 2011).

## Dysphagia: Family Cannot Prove Negligence Was Cause Of Death.

The ninety-four year-old patient was brought to the E.R. for what was described as alteration in mental status.

She was already in very poor health with long-standing medical diagnoses of dementia and dysphagia. The patient's son had declined the feeding tube which the physicians had recommended and, after having been trained to do so, had been feeding his mother himself at home.

The diagnosis in the E.R. was a urinary tract infection and she was admitted for treatment.

While being fed lunch by a nurse the patient became unresponsive. She was revived, but after discussions with the son and his brother, the physicians elected not to provide further heroic measures and she passed away later that evening.

***The Court is not persuaded to depart from the established rule that proof in a medical negligence case requires expert testimony.***

SUPREME COURT OF RHODE ISLAND  
June 24, 2011

The Supreme Court of Rhode Island would not allow the case to go forward without expert testimony that the nurse was guilty of negligence.

It cannot be assumed from the mere fact that the patient expired while a nurse was feeding her that the nurse did not take appropriate precautions for feeding a patient with known histories of dysphagia and dementia. Even if the patient did experience respiratory failure it was not necessarily caused by aspiration of her food.

The son had declined the offer of an autopsy and his experts were not allowed to testify because they were not available for pre-trial depositions, but it was only speculation whether the autopsy or the experts' testimony would have helped his case. **Manilou v. Miriam Hosp.**, \_\_\_ A. 3d \_\_\_, 2011 WL 2517231 (R.I., June 24, 2011).