

Emergency Room: Court Faults Nurse's Assessment, Relies On Nursing Expert.

It is not a fatal flaw to the patient's lawsuit that his nursing expert has never worked as an emergency room triage nurse.

The basic issue in the lawsuit is nursing standards for assessing patients.

The patient's nursing expert has years of ongoing practical experience in hands-on patient assessment and triage, supervision of other nurses and teaching of nursing students.

She has worked as an office nurse in a family practice setting and as a labor and delivery nurse in a hospital, contexts where fundamental assessment skills are a must.

By law, the expert's report that must be filed along with the initial legal papers in a malpractice lawsuit must come from an expert who is competent to testify.

At a minimum, to be competent to testify, the expert must be licensed and have experience in the area of practice germane to the lawsuit or an academic background teaching in that area.

The patient's nursing expert is competent to testify.

COURT OF APPEALS OF GEORGIA
January 26, 2009

The sixty-one year-old patient's wife brought him to the E.R. because he felt dizzy and had started vomiting at home.

The triage nurse saw him right away and listened to his health complaints.

An hour later the patient's wife insisted the nurse check him again. He now had what he described as a "twitch" in his chest and his right arm had gone numb.

The nurse reportedly did not have the patient seen by a physician for another three hours.

When he was seen by the physician it was clear the patient had had a massive stroke. He now has significant impairment of the whole right side of his body.

The patient's lawsuit pointed the finger of fault squarely at the emergency room nurse for failing to recognize signs and symptoms of a stroke and for failing to categorize the patient as extremely urgent and to advocate for him on that basis.

Nurse Can Testify As An Expert On Nursing Standard of Care

An affidavit outlining the professional opinion of a registered nurse was filed in support of the patient's lawsuit, and challenged by the hospital's attorneys as insufficient for a malpractice lawsuit.

Assuming the nurse's education, background and professional experience can be substantiated, the Court of Appeals of Georgia ruled there is no reason *per se* to disqualify a nurse as an expert on nursing standards of care.

In making its ruling the Georgia court was compelled to look at the language of Georgia's statute which, like similar statutes in many other states, explicitly states the baseline qualifications that any expert witness in malpractice litigation must have, whether a doctor, nurse or other professional.

The nurse's *curriculum vitae* that was attached to her affidavit showed she met or exceeded the state's standards, the court said. Houston v. Phoebe Putney Mem. Hosp., ___ S.E. 2d ___, 2009 WL 161738 (Ga. App., January 26, 2009).