

# LEGAL EAGLE EYE NEWSLETTER

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## Expert Witnesses: Court Applies Specialist Requirement To Nurse vs. Nurse Testimony.

After surgery the patient was placed in a medically-induced coma in the hospital's intensive care unit (ICU).

During that time a pressure ulcer started on her coccyx and progressed to the extent she needed thirty-one debridement procedures and was left with permanent residual damage.

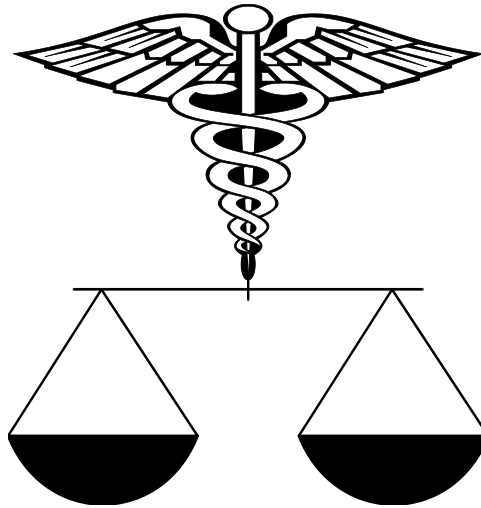
The patient sued the hospital alleging negligence by the ICU nurses.

The patient's lawsuit identified a registered nurse who is a certified wound care specialist as the expert who would testify for the patient as to the nursing standard of care.

The gist of the nursing expert's proposed testimony was that the ICU nurses failed to reposition the patient properly, which started the pressure sore, and then failed to care for the lesion properly after discovering it, which caused it to progress.

In opposition to the patient's expert's proposed testimony the hospital argued that her qualifications are insufficient for a case alleging nursing negligence in the ICU.

The patient's expert's background is in wound care in nursing home settings. She has never worked in a hospital ICU, has no knowledge of the demands put upon nurses in the ICU and has no familiarity with the legal standard of care for nurses in the ICU.



***The RN who was named as the patient's expert witness in her case against the hospital's ICU nurses has a background in wound care in nursing home settings.***

***That background does not make her an expert in patient care in an ICU setting.***

***The patient's case must be dismissed for want of a qualified expert witness.***

SUPREME COURT OF ARIZONA  
October 18, 2017

The Supreme Court of Arizona agreed with the hospital.

In general terms, if the defendant in a healthcare malpractice lawsuit is a specialist in a particular area of medical practice, a specialist in another practice area or a generalist cannot testify against the specialist, even if they hold the same licensing credentials.

The Court reasoned that this rule, which is widely recognized in litigation involving physicians, should also apply to litigation involving nurses.

ICU nursing is a specialty, the Court believed, even though a nurse may be certified in the field but legally does not absolutely have to have any special qualifications beyond a nursing license to work in a hospital ICU.

For a case to succeed against a hospital for alleged errors or omissions by its ICU nurses the Court ruled that testimony against the nurses must come from a nurse whose credentials include work experience in the ICU and/or supervision or education of ICU nurses.

This patient's case, therefore, was subject to dismissal. A healthcare malpractice lawsuit is required by law to be supported by expert testimony from an expert who is qualified to testify for the particular case. ***Rasor v. Hospital***, \_\_ P. 3d \_\_, 2017 WL 4655183 (Ariz., October 18, 2017).

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