

Home Health: A Nurse Has The Responsibility To Get The Patient To The Hospital, Not Just Recommend He Go.

The patient was paraplegic. A home health agency was sending a nurse's aide and an LPN to his home because he had severe bedsores, although that was not the problem that resulted in him suing his home health agency.

The patient's penis and scrotum became red and swollen and there was blood in his urine. The aide reported it to the LPN and the LPN went to see him that day. He contacted the nephew and the patient's sister came and took him to the hospital the next day. He was given antibiotics and told to return in ten days.

Two days later the nurse returned and saw the problem was unchanged or getting worse. He told the patient to go to the hospital but the nurse himself made no effort to get him to the hospital.

Three days later the situation was unchanged and the same thing happened. The nurse told him to go to the hospital but did nothing to get him to the hospital.

Two days later the nephew took him to the hospital. By now it had become necessary to debride necrotic tissue from the penis surgically.

The patient sued for the necrosis and claimed the surgery would not have been necessary with more prompt medical intervention. The jury sided with the home health agency. The Court of Appeal of Louisiana threw out the jury's verdict and awarded \$250,000 – reduced by 50% for the patient's own comparative negligence.

Nurse's Role as Patient's Advocate

The court ruled that a nurse's role as advocate for the patient means a nurse must do more than advise a patient and let it go when the patient does not follow the nurse's advice. A nurse has to take action, the court said. He should have contacted a family member and followed up to make sure they came and got him to the hospital. **Coleman v. Christian Home Health Care**, 786 So. 2d 819 (La. App., 2001).

A nurse has the responsibility to act as advocate for the nurse's patient.

That means when a home health nurse knows the client is not following through on the nurse's advice to call a family member and get himself to the hospital, the nurse must take action and get the client to the hospital.

The nurse's responsibility is especially acute with a disabled patient like this man who was paraplegic and lived alone.

Nevertheless, this patient has some responsibility for his own injuries.

He was paraplegic but he was not helpless.

He was catheterizing himself and was fully aware something was seriously wrong that demanded immediate medical attention.

He only had a physical disability. He had no cognitive impairment to prevent him from comprehending the nurse's instructions to call someone and get himself to the hospital.

The nurse was negligent. The patient was 50% comparatively negligent.

COURT OF APPEAL OF LOUISIANA, 2001.

Discrimination: Preparation For JCAHO Inspection More Important Than Vacation, Court Says.

Because she was the hospital's infection control practitioner and employee health nurse her vacation plans were approved only on condition that her areas of responsibility be completely up to speed for JCAHO accreditation review before she left. One week before she intended to leave the hospital's internal inspection committee determined the nurse's areas of responsibility were not ready.

She was told she could not take her vacation. She resigned. Infection control was assigned to an African-American nurse and employee health was assigned to a Caucasian nurse. Both areas failed the JCAHO review.

The nurse in question was of Filipino descent. She sued for race discrimination. The US District Court for the District of Columbia threw out her lawsuit.

Minority vs. Minority Discrimination

In general a minority person of Filipino descent can sue for discrimination if her job is taken by a minority person of African-American descent. A preference for one minority group over another is just as discriminatory as a preference for Caucasians over minorities, the court noted.

Job Responsibilities vs. Personal Life

The most important point was that a healthcare employer can expect an employee to put job responsibilities ahead of personal choices. The court ruled it was not discriminatory for the hospital to insist its infection control/employee health nurse give JCAHO re-accreditation a higher priority than her personal desire for an extended vacation when she wanted it. **Jose v. The Hospital for Sick Children**, 130 F. Supp. 2d 38 (D.D.C., 2000).