

Neonatal Intensive Care: Nurses, Physicians Failed To Diagnose Imperforate Anus.

A medical and nursing malpractice lawsuit filed in the Superior Court, Riverside County, California resulted in a \$10,000,000 pre-trial settlement.

The settlement was reported with a stipulation that the names of the patient, the hospital and the physicians remain confidential. The settlement was formally approved by the court on behalf of the infant, born November 23, 2004, on July 19, 2007.

Responsibility for payment of the settlement was split 50/50 between the neonatology medical group and the hospital which employed the neonatal nurses. The funds will go toward purchase of annuities to pay for a lifetime of special care for the baby's childhood and adult years.

The baby was born at 31 weeks gestation to an eighteen year-old mother with a history of illegal drug use who had received no prenatal care.

When she arrived at the hospital in active labor, 4 cm dilated and fully effaced, the mother tested positive for THC and amphetamines. Child Protective Services were notified and took immediate legal custody at birth. On a positive note, the baby's Apgar scores were 9 at birth and 9 shortly after, he weighed 1,248 grams and he was having no respiratory distress.

Neonatal Nursing Assessments

In the neonatal intensive care unit two hospital staff nurses, who could not be identified from the chart and did not testify, conducted the first nursing assessment. A rectal temperature apparently was obtained and was charted, which implied that rectal patency had been verified. The abdominal circumference was recorded as 22 cm.

A second exam was done by a neonatal nurse practitioner, also employed by the hospital. She charted, "Anus WNL – pat, rectal exam not merited."

Then the baby was seen by two neonatologists from the neonatology medical group. They were concerned about an elevated hematocrit but saw nothing else out of the ordinary.

Neonatal Nursing Care

During the first night a nurse changed the diapers and found no stool. By the next morning the abdominal circumference had increased slightly to 22.5 cm. An oral gastric tube was inserted on low intermittent suction and the baby was ordered to receive nothing by mouth.

The neonatologists continued to follow the infant for apnea and bradycardia.

On the morning of the second day a staff nurse measured the abdominal circumference at 26 cm. and noticed that the baby had not yet had a bowel movement. A third neonatologist from the medical group saw no cause for alarm.

Early that afternoon a staff nurse noted the abdominal circumference was now 27 cm. but did not feel it was necessary to notify the physician.

At 5:00 p.m. the diaper was changed. There was some stool the nurse was not able to wipe from the rectum. She did not notify the neonatologist.

The neonatologist found a rectal fistula was starting. An x-ray revealed free air in the bowel, that is, the bowel had perforated internally and the contents were in the peritoneum.

The baby was transported to neonatal intensive care at a university hospital. Over time the baby had numerous surgeries for ruptured, torn and necrotic tissue within the intestines and for creation and revisions of a colostomy.

The child now requires constant home nursing care and will require total parenteral nutrition for the remainder of his life.

A neuropsychiatric evaluation has indicated the child may be facing mild mental retardation. It cannot be linked conclusively to the events surrounding his birth in the hospital, but it will more likely than not impact his ability to function independently managing his own TPN as an adult. **Confidential v. Confidential, 2007 WL 2363269 (Sup. Ct. Riverside Co., California, July 19, 2007).**