Nurse As Patient's Advocate: RN's License Suspended For Incompetence, Gross Negligence.

The patient died in the ICU one hour after a confrontation occurred on a hospital med/surg unit between a senior resident physician and the med/surg unit RN charge nurse.

The charge nurse's conduct did not cause or contribute to the patient's death, according to all of the post-mortem medical evidence.

The charge nurse nevertheless had to answer for her conduct before the State Board of Nursing to charges of incompetence and gross negligence. The Board suspended her license for three years. The California Court of Appeal upheld the Board's decision.

Nurse Physically Countermanded Physician's/Treatment Team's Plan of Care for Respiratory Distress

The upshot was the charge nurse unplugged the bed from the wall, disconnected the patient's cardiac monitor and O_2 and physically pushed the bed out of his room, off the unit, down the hall, into and out of an elevator and into the ICU on a different floor, just as the senior resident, a junior resident, two respiratory therapists and a staff nurse were about to intubate him.

The charge nurse testified it was her understanding of hospital policy that a patient could not be intubated on a med/surg unit and absolutely had to be transferred to the ICU before intubation could occur, regardless of the fact everyone else concerned with his care believed that immediate intubation was necessary and it was not relevant where it was to occur.

The senior resident had the necessary training and experience to perform the intubation with the assistance of those standing by and all the necessary supplies were at hand, having just been assembled from the med/surg unit's crash cart.

With hindsight, the court confirmed the medical experts' assessment that the senior and junior residents were correct in their judgment that the patient required immediate intubation and that the nurse was incorrect to believe that intubation could wait until he got to the ICU.

There is no question a nurse has the duty to act as the patient's advocate by initiating action to change decisions which are against the interests of the patient.

There are even some circumstances which justify a nurse's refusal to follow a physician's order.

It is permissible for a registered nurse directly to disobey a physician's order that is inaccurate or unsafe.

When a nurse directly disobeys a physician's order there is always the possibility that the evidence after the fact will support the physician's rather than the nurse's assessment of the clinical issues and the physician's professional judgment about what to do.

It is always the best course for the nurse to communicate the nurse's concerns to the physicians and the rest of the treatment team.

It is not a reasonable course of action, as a general rule, for a nurse preemptively to substitute his or her own judgment without communicating with other team members and without communicating with other nurses, nursing supervisors and/or other physicians.

CALIFORNIA COURT OF APPEAL
November 13, 2008

In the ICU his respiratory distress was resolved and his vital signs returned to normal 25 minutes before he finally went into cardiac arrest, coded and died.

His cause of death was officially linked to multiple medical problems which included renal failure but did not include respiratory distress.

Violations of Nursing Standards Failure to Communicate Her Concerns

The board of nursing was highly critical of the charge nurse's failure to communicate her concerns to the rest of the treatment team. A nurse's legal duty to advocate for the patient is, first and foremost, a duty to communicate, in most cases with the physician or physicians, before the nurse takes decisive pre-emptive action.

The charge nurse testified she fully understood that the patient's low O_2 saturation and stat lab values did point to significant respiratory acidosis and that intubation was necessary. She further testified that intubation was the first step in setting up the patient on a respirator and that respirators and care for respirator patients were only available in the ICU.

However, not having spoken with the physicians before she physically took control of the patient she failed to realize the physicians intended to intubate and bag the patient immediately and to continue to bag him on the way to the ICU, which all the medical experts agreed after the fact was the correct course of action.

ABC's of Patient Assessment

All physicians and nurses have been trained that the most important patient-assessment data point is an adequate airway.

Opening an airway cannot wait while the pro's and con's are debated, unlike many other hypothetical clinical scenarios where there is time for that.

In this particular case the physicians wanted to insure an adequate airway right away on the spot but the nurse wanted to wait a few minutes later while the patient was undoubtedly in immediate jeopardy. **Finnerty v. Board of Registered Nursing, __ Cal. Rptr. 3d __, 2008 WL 4881531 (Cal. App., November 13, 2008).**