

Chemical Dependency: Nurse's Intoxication Can Lead To Legal Liability.

The parents sued the hospital alleging that negligence by the hospital's medical and nursing labor and delivery team caused their infant's cerebral palsy.

The focus at the trial was the fetal monitor strips. The strips revealed that the fetal heart rate dropped below seventy for almost twelve minutes.

The jury nevertheless ruled the doctors and nurses were not negligent.

Almost two years later the family's lawyer somehow obtained a copy of the labor and delivery nurse's personnel file. Her file revealed she had an ongoing chemical dependency problem during the general time frame of the events in the labor and delivery department that had sparked the parent's lawsuit.

The family's lawyer tried to re-open the lawsuit with a new theory of liability. He argued that the hospital was negligent for hiring and/or retaining a nurse suffering from chemical dependency. Her impairment caused her to neglect her duty to watch the monitor strip. That explained why the labor and delivery team failed to pick up on the low fetal heart rate. That was substandard care and caused the baby's cerebral palsy.

Chemical Dependency Itself Not a Basis for Legal Liability

The Minnesota Court of Appeals ruled that a nurse's ongoing chemical dependency problem, in and of itself, is not a valid basis to impose legal liability on a hospital for an adverse event involving the nurse.

On the other hand, proof that the nurse was intoxicated on duty while participating in the adverse event that sparked the lawsuit could be grounds for legal liability, the court said. No such proof, however, actually existed in this case. **Kelly v. Gutormsson, 2007 WL 2245085 (Minn. App., August 7, 2007).**