LEGAL EAGLE EYE NEWSLETTER

January 2005 — *For the Nursing Profession* — Volume 13 Number 1

Bowel Obstruction, Emesis, Aspiration: Hospital Nurses Faulted For Patient's Death.

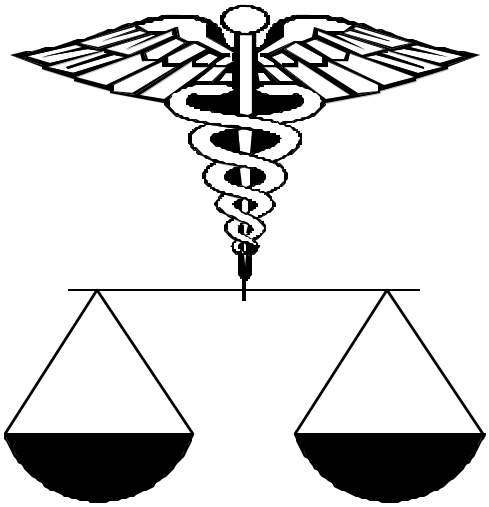
The Court of Appeal of Louisiana went over the facts in detail in support of its decision to uphold a substantial verdict for the family for the patient's wrongful death.

The sixty-five year-old patient was admitted from the emergency room with complaints of abdominal pain and nausea. X-rays and a CT scan of the abdomen led to an admitting diagnosis to rule out small bowel obstruction.

Her primary care physician wrote an order to be notified of any change in her condition, that is, if there was increased nausea or vomiting. The p.m. nurse called when she vomited, but did not call when she vomited again because a respiratory therapist was in the room at the time and did not notify the p.m. nurse she had vomited.

The night nurse knew from reading the p.m. nursing and respiratory notes that the patient had vomited twice on the p.m. shift.

At midnight the patient was found with feces around her room and with her IV line disconnected. The patient was confused. The night nurse did not report this to the doctor, believing it is not an unusual change in a patient's condition to awaken during the night and have a bowel movement on the way to the bathroom.



The cause of death was a chain of circumstances which started with aspiration of intestinal contents, causing hypoxia which in turn caused cardiopulmonary arrest.

Underlying these causes was acute diverticulitis.

The patient's continued vomiting, bowel incontinence and confusion should have been reported to the physician.

COURT OF APPEAL OF LOUISIANA
December 14, 2004

At 3:25 a.m. the patient had coarse breath sounds. She requested her asthma medication. The nurse left the room to phone respiratory therapy. When she returned four minutes later the patient had vomited dark brown, fecal-smelling material, was cyanotic and had no pulse. A code was called but the patient could not be revived.

The court believed the night nurse should have appreciated the gastrointestinal origin of the patient's breathing difficulties for which an asthma treatment would not have been appropriate, turned her on her side as a precaution against aspiration and stayed in the room with the patient.

The earlier episode at midnight should have been reported to the physician as a significant change in the patient's condition.

The medical experts testified the on-call physician should have started a nasogastric tube as early as the second vomiting on the p.m. shift. The on-call physician said he would have started a nasogastric tube to remove the stomach contents to prevent aspiration, if he had been notified. It was not clear if the court blamed the p.m. nurse or respiratory therapy. **Beilenson v. Jefferson Parish Hosp., __ So. 2d __, 2004 WL 2890569 (La. App., December 14, 2004).**

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False Billing, Illegal Scripts For Controlled Substances: Doctor, Nurses Found Guilty.

The jury found the physician guilty of health care fraud, conspiracy to distribute and dispense controlled substances illegally and of causing and aiding and abetting in the illegal distribution and dispensation of controlled substances.

He was sentenced to almost four years in prison, had his medical license revoked and was ordered to pay more than $200,000 as restitution to the insurance companies he and his office staff had defrauded. The US Circuit Court of Appeals for the Second Circuit modified his sentence only with respect to the amount of restitution, reducing it from a much larger dollar figure the lower court had imposed.

Nurses Involved in Scheme To Defraud, Illegally Distribute Controlled Substances

Two office nurses, one actually an advanced practitioner with prescriptive authority, were deeply involved in the illegal activities at the doctor's practice known as Diagnostic Interventional Pain Management & Rehabilitation Services.

Federal prosecutors allowed each nurse to plea-bargain to up-coding fraud charges in exchange for their testimony at the doctor's trial. Their individual sentences and other punishments were not specified in the court record.

The nurses knew what was going on and willingly participated. A nurse can fill out a prescription form for the doctor's signature. However, a scheme where the doctor signs in advance, never sees the patients and allows the nurses in effect to dole out abusive quantities of controlled substances is well beyond the pale.

A nurse's visit with a patient can be billed to an insurance company, provided it is properly coded as a nurse's visit without the physician's involvement. However, nurses cannot "up-code" such visits to reflect complex physician involvement as done in this case simply to bring in revenues under false pretenses. **US v. Singh, __ F. 3d __, 2004 WL 2663629 (2nd Cir., November 23, 2004).**

The physician signed whole books of blank triplicate prescription forms used for controlled substances, then left it to two office nurses to fill in the patient's name, the medication, the dosage, etc.

Not only were the nurses illegally prescribing controlled substances to patients, they were also completing billing forms for the insurance companies listing all sorts of complex office consults for various medical conditions for which the doctor supposedly had seen the patients before the doctor had written the prescriptions.

An insurance company can be billed legitimately for a patient's visit with a nurse in the physician's office, but the billing has to reflect the proper code for the fact it was a visit with the nurse that did not involve the physician.

The two nurses are proper defendants along with the doctor on many of the counts of the complex grand jury indictment for fraud and illegal dispensation of narcotics.

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT
November 23, 2004

Medicare/ Medicaid Fraud: Retaliation Claim Upheld.

Two billing coders in a university hospital's billing department became concerned during a comprehensive file review that their employer had been falsely billing Medicare and Medicaid for surgical procedures performed by teaching physicians which were actually performed by fellows, residents and nurses.

They brought their concerns to their supervisors. They accused the hospital system of the illegal and fraudulent practice of billing Medicare and Medicaid for undocumented surgeries and insisted that the Office of Inspector General was going to come in and wipe out the whole system. They were eventually fired.

The US False Claims Act allows private individuals to sue on behalf of the Federal Government to recover funds fraudulently obtained from government programs.

The False Claims Act also protects employees from employer retaliation.

UNITED STATES COURT OF APPEALS
EIGHTH CIRCUIT
December 3, 2004

The US Circuit Court of Appeals for the Eighth Circuit noted that the US False Claims Act requires a high degree of accounting precision behind any claim that a healthcare facility has falsely billed for services not rendered. Vague accusations of fraudulent practices are not enough.

However, the two employees were protected by the False Claims Act from employer retaliation and had the right to sue for wrongful discharge, even though they were not able to put together solid evidence behind their accusations. **Schuhardt v. Washington University, __ F. 3d __, 2004 WL 2754758 (8th Cir., December 3, 2004).**

Waking Patients Early: Aide Violated Care Plans, Court Sees Misconduct Justifying Termination.

An aide had been working more than seven years at the same nursing home before she was fired. After being fired she applied for unemployment.

When her former employer contested her right to unemployment benefits the issue became whether she had been fired for misconduct justifying termination.

The unemployment referee ruled she was guilty of misconduct justifying termination and had no right to collect unemployment. The Court of Appeals of Minnesota agreed in an opinion the Court designated as unpublished.

Aide's Legal Duty to Follow Care Plans

As a general rule a healthcare employer has the right to expect that persons employed as personal caregivers will follow the care plans that have been set up for the facility's patients.

In this case the aide came to work early on her own time prior to the start of her shift at 6:00 a.m. and began waking, toileting, cleaning and dressing her patients.

The patients then became drowsy even during their breakfasts and were not fully able to participate in their assigned daily activities.

The court, however, did not delve into the caregiving issue of what time the patients should be awakened. The only legal issue was whether the aide had disregarded the patients' care plans. The appropriateness of their care plans and the significance of deviations from their care plans was an issue only for her employer.

Employment misconduct is any intentional conduct, on the job or off the job, that disregards the standards of behavior that the employer has the right to expect of the employee or that disregards the employee's duties and obligations to the employer.

Regardless of what the aide was thinking, her actions violated the care plans that had been drawn up for her patients.

More ominously, she showed an intent to ignore her overall duty to follow the patients' care plans and to make decisions by herself based upon her own convenience.

COURT OF APPEALS OF MINNESOTA
UNPUBLISHED OPINION
November 23, 2004

Healthcare facilities have the right to expect that caregiver employees will not intentionally violate patients' care plans. Employees who intentionally do so can be fired for cause.

The wider issue, beyond daytime sleepiness for these nursing home residents, was what to do with an aide who intends to substitute his or her own judgment in place of the patients' care plans or who places his or her own convenience above the patients' best interests as reflected in the care plans drawn up for them by the professional nursing staff.

Competent Evidence Required

The only thing the aide was allowed to question was whether the nursing home had corroborated her offenses with actual eyewitness accounts from persons with first-hand knowledge of what she had done, which was present in this case. **Williams v. Jones-Harrison Home Corp., 2004 WL 2660184 (Minn. App., November 23, 2004).**

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Mentally-Challenged Patient: Special Care Required In Assessment After Incident.

A developmentally-challenged seventeen year-old student's leg was fractured when his teacher tried to transfer him from one chair to another.

The school nurse was not present during the transfer and had no direct responsibility for the appropriateness of the transfer technique.

However, when the nurse assessed the youth right after the accident she failed to detect that a lower leg bone had been broken. After he arrived home on the bus later that day his mother took him to a hospital emergency room where the fracture was treated.

Assessment of Mentally-Challenged Patient Faulted

The Court of Appeals of Tennessee accepted expert testimony from a PhD-level nurse that special care must be taken in the post-accident assessment of any mentally-challenged patient.

A caregiver is not able to rely upon verbalization of pain, or lack thereof, and/or the patient's localization of pain in the assessment of such an individual, the nursing expert pointed out.

Given the patient's limited communication abilities, a complete and thorough assessment should have included removing his clothing to examine his lower extremities thoroughly.

Ideally a medical doctor would have been called in to back up the nurse's assessment that no significant injury had occurred.

Cause and Effect Missing

That being said, however, the court reiterated that the nurse had no responsibility for the injury itself.

Further, an orthopedic medical expert was hired to examine the facts of the case. His opinion was that the delay of several hours between the actual injury and treatment at the hospital later the same day had no meaningful effect on the treatment outcome or caused additional pain. **Estate of Jenkins, 2004 WL 2607531 (Tenn. App., November 16, 2004).**

Three elements are necessary for a patient to succeed with a professional negligence case against a caregiver:

The caregiver was negligent, that is, the caregiver's professional conduct failed to meet the legal standard of care.

The patient was harmed.

The harm to the patient was caused by the caregiver's negligence.

Regardless of the strength of one or two of these elements in the patient's favor, the judge or jury can focus on the weakest link and deny the patient's case altogether if it is missing.

Even if the nurse was negligent in her assessment and her negligence caused delay in treatment, there is no proof that delay in treatment worsened the patient's injuries or caused pain that otherwise would not have been there.

The patient's family has had sixteen months from the date of the orthopedist's deposition until the date of the court's ruling and have been unable to find any evidence to contradict his expert opinion.

COURT OF APPEALS OF TENNESSEE
November 16, 2004

Harvesting Of Organs: Nurse Guilty Of Bad Faith.

The Supreme Court of Alabama went to some lengths to set out exactly what happened after a twelve year-old died in the hospital following an asthma attack.

Two nurses tried to get both parents to consent to donation of the boy's corneas. One nurse was unable to get the mother to agree. A second nurse was able to get the father to say he would agree if the mother also agreed. The second nurse apparently then told the father the mother had agreed even though he knew the mother had not. The corneas were then removed by the local eye bank.

Under the traditional common law the deceased's remains were strictly the property of the family and any tampering was grounds for a lawsuit.

Statute laws have been enacted to protect caregivers who participate in organ harvesting in good faith.

SUPREME COURT OF ALABAMA
November 19, 2004

The court pointed to the Lifesaving Organ Procurement Act, similar to laws in other states that provide immunity from civil lawsuits to healthcare providers who participate in good faith in the process of organ donation and organ harvesting.

According to the court, the first nurse acted in good faith, was covered by the Act and was immune from a lawsuit.

The second nurse, and the hospital as his employer, were not immune from a lawsuit. Obtaining consent to organ harvesting through misrepresentation of a material fact is not good faith. The verdicts of $100,000 for each parent would stand. **Lanier Memorial Hosp. V. Andrews, 2004 WL 2634298 (Ala., November 19, 2004).**

No Heavy Lifting: Nurse Turned Down Offer Of Reasonable Accommodation, Disability Discrimination Lawsuit Is Denied By Court.

The US District Court for the District of Massachusetts recently handed down a detailed opinion which carefully works through all of the legal issues which commonly come up in nurses' disability discrimination cases.

The court ruled for several reasons, each of which would be sufficient in and of itself, that the nurse's disability discrimination lawsuit should be dismissed.

Choroidal Neovascularization

The nurse came down with a condition which made the blood vessels in her eyes prone to bleeding. The bleeding was associated with valsalva activities such as straining to lift a heavy patient. To prevent her from further compromising her vision her physician restricted her from heavy lifting on the job.

Definition of Disability
Americans With Disabilities Act (ADA)

The first issue is whether the employee or former employee has a disability as contemplated by the ADA. If not, the legal analysis stops dead in its tracks. The interactive process between employer and employee to arrive at a reasonable accommodation and reasonable accommodation itself are moot points. The employee has no disability discrimination case.

The key is to look for what Congress intended when it enacted the ADA. To be disabled an individual must have a permanent impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives.

US court case precedents have stated time and again that heavy lifting on the job is not a routine activity of daily living and that nurses and others who cannot do heavy lifting are not disabled persons.

Qualified Individual With A Disability

Although technically a moot issue at this point in the analysis, the court went ahead and noted that, even if the nurse had a disability, she was not a qualified individual with a disability.

A medical condition which prevents a nurse from doing heavy lifting is not a disability within the meaning of the Americans With Disabilities Act (ADA), even if it keeps the nurse from doing an essential function of a staff nurse's job.

Even if the nurse was disabled, she was not a qualified individual with a disability because she cannot perform one of the essential functions of her staff nurse's job, even with reasonable accommodation. That is, help with the essential function of lifting patients, which might allow her to continue working as a staff nurse, is not considered a reasonable accommodation.

Although not required to do so because the nurse does not have a disability as defined by the ADA, the hospital did offer reasonable accommodation by trying to sit down with the nurse and discuss the appropriateness of her transferring to a scrub nurse position in ophthalmic surgery, where no heavy lifting is required.

UNITED STATES DISTRICT COURT
MASSACHUSETTS
November 24, 2004

Heavy lifting is an essential function of a staff nurse's job, according to this hospital's own pre-existing internal policies and according to published US Department of Labor standards. Even if she was disabled, the nurse would not be considered a qualified individual with a disability.

Reasonable Accommodation

Although technically it was a moot point, the court noted that the hospital did offer reasonable accommodation.

The employer's duty of reasonable accommodation comes in two parts:

The employer must demonstrate willingness to engage in an interactive communication process with the employee to determine the employee's limitations, needs, qualifications, preferences and to convey what the employer has to offer.

The employer must then make available an accommodation that is reasonable, usually in the form of an available position the employee is able to perform with the employee's limitations.

US courts have already ruled that help with lifting, or excusing an employee from lifting, if lifting is an essential function of the job, is inherently unreasonable and is not required to avoid charges of disability discrimination.

The hospital offered to discuss with the nurse a transfer to a scrub nurse position in ophthalmic surgery, a position for which she was qualified and for which no heavy lifting was required.

The nurse then failed in two respects. The court noted she did not reply to the hospital's overtures to communicate with her. The court also noted she never accepted the scrub position, which was a reasonable accommodation, but instead stood fast with her demand to keep her staff nurse position with a dispensation from having to do heavy lifting.

The court dismissed her case. **Bryant v. Caritas Norwood Hosp., __ F. Supp. 2d __, 2004 WL 2724080 (D. Mass., November 24, 2004).**

Nursing Home Resident Falls: No Negligence Established.

A nursing home resident filed a lawsuit for negligence against the nursing home where she lived.

Her lawsuit claimed she was left unattended in a geri chair in the day room and she fell while trying to get out of her chair to reach for her walker.

The case was dismissed as unproven.

To prove liability in a healthcare malpractice lawsuit, the patient or patient's representative must be able to prove what is the legal standard of care for the facility, that the facility breached the standard of care and that the breach was the cause of injury to the patient.

NEW YORK SUPREME COURT
APPELLATE DIVISION
November 15, 2004

The New York Supreme Court, Appellate Division, agreed with the county court judge's decision to dismiss the case.

A patient or resident falling, in and of itself, does not necessarily imply negligence without proof how the facility's staff were negligent and how their negligence led to the fall. The court noted that the patient's family's attorneys' nursing expert witness had little more to say than that the patient had fallen, which is not enough for a professional negligence case. The resident had died from unrelated causes. There was no actual proof how or why she fell. The facility's staff nurses testified their care of the resident met the legal standard of care in all respects. There was no contrary evidence exactly how the facility's staff departed from the standard of care. **Elliot v. Long Island Home, Ltd., 784 N.Y. S.2d 615, 2004 WL 2594130 (N.Y. App., November 15, 2004).**

Peer Review: Court Rules Nursing Home Incident Reports Confidential.

The Court of Appeals of Michigan, in an unpublished opinion, ruled that the attorneys representing a patient suing a nursing home for negligence were not entitled to access copies of the internal incident reports related to their client's care at the nursing home.

Records, data and information collected by or for internal quality and peer review are confidential and are to be used only for internal quality and peer review functions.

The files, although available to state administrative agencies under certain circumstances, are not subject to discovery by court subpoena in civil damages cases.

COURT OF APPEALS OF MICHIGAN
UNPUBLISHED OPINION
November 9, 2004

The Court of Appeals of Michigan overruled a county circuit judge's subpoena to the facility that would have allowed the patient's attorneys access to the facility's internal incident reports.

There is a strong public policy favoring full objectivity and stark frankness among persons who internally review quality of healthcare delivery which cannot be compromised by fear that internal review will come to light in civil lawsuits. The peer review privilege of confidentiality applies to nursing homes as well as acute-care hospitals. **Maviglia v. West Bloomfield Nursing & Conv. Center, Inc., 2004 WL 2533550 (Mich. App., November 9, 2004).**

Discrimination: Court Rules Medication Error Is Grounds To Fire Nurse.

A sixty-one year-old nurse of Haitian national origin had worked in long-term care for more than twenty five years. It was only after she passed her LPN boards in 2000 that she was promoted and given medication responsibilities at the nursing home where she worked.

A comatose patient's medications were not on the medication cart when she came on duty for her day shift. She told her charge nurse, also Haitian, and phoned the pharmacy. At the end of her shift she told the new charge nurse, also Haitian, that the patient had not received any of his medications during her shift.

The LPN was fired and both charge nurses were reprimanded and suspended but not fired. The LPN sued for age and national origin discrimination.

The nurse was fired for a serious and apparently deliberate medication error.

The nurse who was fired was seen as primarily responsible.

Two other Haitian nursing staff were also disciplined over the incident but not fired. There is no proof of discriminatory intent.

NEW YORK SUPREME COURT
QUEENS COUNTY
November 17, 2004

The New York Supreme Court, Queens County, ruled that a potentially life-threatening and seemingly deliberate medication error is grounds for a nurse's termination. There was no discrimination. **Charles v. Highland Care Center, Inc., 2004 WL 2656705 (N.Y. Sup., November 17, 2004).**

Guardianship: Court Relies Upon Testimony From Patient's Nurse.

The court-appointed physician who conducted the mental examination testified he diagnosed the patient with bipolar disorder, alcohol dependence and borderline personality disorder.

The nurse who acted as the patient's case manager had begun to document the instances when the patient was not compliant with her medications. She noted eleven such instances in the month before guardianship proceedings were started. After the court case was started, the patient started taking her medications again as her memory seemed to improve.

The nurse had also been helping the patient write checks and could testify the patient was not able to handle her own finances.

The nurse's documentation and testimony is a critical factor in determining that the patient is not capable of properly caring for herself and needs the court to appoint a guardian.

COURT OF APPEALS OF OHIO
November 15, 2004

The Court of Appeals of Ohio accepted the nurse's testimony as the critical link in the determination that the patient was legally incompetent and needed a court-appointed guardian.

Mental illness is not enough. There must also be solid proof that as a result of mental illness the patient is impaired to the point that the patient is incapable of taking proper care of himself or herself. That proof, as in this case, might only be speculation coming from the examining physician rather than from a nurse who has close personal knowledge of the patient's capabilities or lack thereof. **Guardianship of Sloane, 2004 WL 2581081 (Ohio App., November 15, 2004).**

Faulty Transfer Technique: Verdict For Damages Upheld, No Elder Abuse Found.

The nursing home admitted its negligence to the court for the way the aides attempted to transfer the resident to her bed and then put her to bed without promptly notifying the nurse she had fallen.

The nursing home also admitted the nurses were negligent for not assessing the patient or calling her physician when they later learned she had fallen and hit her head.

Because the nursing home admitted that its employees were negligent, the jury only had to determine how much to award as compensatory damages for the resident's wrongful death.

The judge was correct not to allow the jury to consider an elder abuse claim, as that would have opened the door to potentially huge punitive damages.

The nursing home staff undoubtedly were negligent.

However, there was no intentional or reckless indifference to the resident's needs or intent to inflict mental or physical injury upon her.

CALIFORNIA COURT OF APPEAL
December 2, 2004

Even though the nursing home admitted there was negligence, the California Court of Appeal went over the facts of the case and accepted testimony from two nursing experts.

The Court of Appeal upheld the jury's verdict in favor of the family for compensatory damages of $1,764.63 for funeral and burial expenses and $50,000.00 for the loss of the love, companionship, comfort, care, affection, society and support from the deceased.

The Court of Appeal also upheld the trial judge's decision not to let the jury even consider punitive damages for elder abuse. It was a clear-cut case of negligence, but no elder abuse occurred.

Negligence In Transfer, Post-Accident Assessment and Care

The two aides who tried to put the patient to bed, it came out in court, had never been oriented in two-person transfer techniques. They were correct to appreciate the need for two persons to transfer this patient who was prone to stiffening and shaking during transfers, but the method they used was not correct.

After the patient hit and lacerated her head on the bed rail she should not have been moved and not put to bed without an immediate assessment by a nurse. The aides should have been trained to know that a nurse's assessment was necessary.

When the nurses did learn what had happened they should have assessed her promptly, then promptly called her physician or another physician. The nurses apparently just sent a fax to the patient's physician's office, knowing the office would be closed as it was early evening.

Later that evening when the patient vomited and her O_2 sat fell the nurses should have known there was a closed head injury, a medical emergency. They did give her O_2 but they should then have called 911 and had her taken to an emergency room, the court believed. **Reyome v. Sunrise Senior Living Services, Inc., 2004 WL 2749811 (Cal. App., December 2, 2004).**

LEGAL EAGLE EYE NEWSLETTER
For the Nursing Profession

Restraining Order: Court Validates DON's Actions.

A nursing home resident's son and daughter-in-law sued the nursing home for denying the son visitation with his father who was a resident at the nursing home.

A restraining order had been entered to the effect that the son was not to contact his father. An attorney claiming to represent the son phoned the director of nursing and stated the restraining order had been lifted. The director of nursing said she would still not let the son visit until she received copies of the court papers to corroborate what the lawyer was saying.

Rather than provide copies of the court papers, the lawyer filed the lawsuit against the nursing home for intentional infliction of emotional distress upon the son.

In its recent unpublished opinion the Superior Court of Connecticut did not question the director's actions. The court ruled that the lawyer must be disqualified as he was a witness. **Anziano v. Harbor Hill Care Center, Inc., 2004 WL 2757456 (Conn. Super., November 2, 2004).**

Concerted Action: Court Throws Out Nurse's Wrongful Discharge Suit.

A nurse drafted a memo to hospital management for seventeen other nurses in her department to sign protesting changes in hospital policy which denied overtime for the last four hours of twelve-hour shifts under a new state law that allowed employers to do that.

The nurse was fired by her supervisor for going over her supervisor's head, that is, for violating the chain of command.

The California Court of Appeal, in an unpublished opinion, ruled the nurse could not sue for wrongful discharge. Whether or not she was wrongfully discharged, what she was doing is considered concerted action over the terms and conditions of employment for which state-court lawsuits are disallowed by the US National Labor Relations Act. Going through the National Labor Relations Board is the only alternative. **Short v. Community Memorial Hosp., 2004 WL 2616293 (Cal. App., November 18, 2004).**

Tuberculosis: New Draft Guidelines From CDC For Preventing Transmission In Healthcare.

The CDC's new draft guidelines for 2005 are meant to reflect new knowledge about the epidemiology of tuberculosis, advances in scientific understanding and changes in health-care practices in the US in the last decade.

The prior 1994 guidelines the new guidelines will replace were targeted toward hospitals, while the new 2005 guidelines will have wider application.

As any US Federal agency must do before adopting mandatory new regulations in final form, the CDC has published the new guidelines in draft form in the Federal Register for public comment. The public comment period expires on February 4, 2005. At some point after considering the comments the CDC will likely issue new guidelines as mandatory Federal regulations.

The US Centers for Disease Control and Prevention (CDC) has announced the availability of new Draft Guidelines for Preventing Transmission of Mycobacterium tuberculosis in Health Care Settings (2005) to replace the guidelines published in 1994. The CDC has opened up the public-comment process.

Implementation is not mandatory at this time.

FEDERAL REGISTER December 6, 2004
Pages 70457 – 70458

We placed an Internet link to the new guidelines on our website at http://www.nursinglaw.com/CDCTB2005.htm.

The link on our website leads to the link on the CDC's website which in turn leads to the new guidelines themselves.

The new guidelines are 269 pages in length contained in a 1.76 megabyte PDF file that can take six minutes or longer to download without a high-speed DSL Internet connection.

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