

Labor & Delivery: Nurses As Advocates For The Patient.

At thirty-two weeks the mother was taken to the hospital by ambulance because she had started vomiting.

Her physician and another physician decided to send her to a larger hospital in another city more than two hundred miles distant.

She was sent to the second hospital by non-emergency ground ambulance.

Some time before arrival at the second hospital she suffered a placental abruption and was bleeding on arrival.

She underwent a cesarean and a hysterectomy, but nevertheless died later that evening, not quite seven hours after her arrival at the second hospital.

Ten weeks before her emergency visit to the first hospital she had had an ultrasound at that same hospital. The radiologist's findings were suspicious for placenta previa. That had been reported to her physician who saw her during her emergency room visit and decided to transfer her.

Lawsuit Against First Hospital Nurses' Duty to Advocate for the Patient

The husband and children sued the first hospital alleging that the hospital's emergency department nurses violated the legal standard of care by failing to advocate on the patient's behalf against her transfer to the second hospital.

The Court of Appeals of Texas accepted the opinion of the family's nursing expert over the hospital's objections.

Although the family's expert worked in pediatric hematology and oncology, she had a strong prior work background in labor and delivery. She was an LVN when she worked in labor and delivery, but had obtained her RN license before being asked to render her expert opinion.

The family's nursing expert stated that the first hospital's nurses should have assessed the patient's condition as an obstetric patient and been aware of suspected bleeding and acute contractions from preterm labor.

Given the patient's condition, the nurses should have advocated that she remain at the facility and should not have permitted her to be transported by ordinary ground ambulance to a facility many miles away. **Columbia Valley v. Zamarripa, 2015 WL 5136567 (Tex. App., August 31, 2015).**

The family's lawsuit alleged the patient's death was due in part to a breach of the standard of care by the hospital's nurses in permitting and facilitating her transfer to another facility many miles distant.

According to the family's nursing expert, the nursing standard of care required the hospital's nurses to assess the patient's status as an obstetric patient by examining her for bleeding, infection and preterm labor.

The nurses were expected to advocate for the patient by reporting her vital signs, fetal monitoring strip status and lab values, by requesting appropriate orders from the physician and by advocating against transfer of the patient.

The nurses violated the standard of care by allowing the patient to be transported to a facility miles away while she clearly was experiencing ongoing contractions from preterm labor and was diaphoretic.

Having worked in labor and delivery, the family's nursing expert's background allowed her to render an expert opinion, even though she is currently practicing as an RN in another clinical area.

COURT OF APPEALS OF TEXAS
August 31, 2015

Labor & Delivery: Court Discusses Peer Review Privilege.

The hospital was sued by a former obstetric patient on her own behalf and on behalf of her infant.

The physicians and nurses met privately to discuss the incident. That did not waive the confidentiality of the hospital's formal peer review process.

However, what was said privately is not covered by the peer review privilege.

UNITED STATES DISTRICT COURT
WEST VIRGINIA
September 8, 2015

At this point there has been no ruling on the validity of the lawsuit's basic underlying allegations of negligence.

As a preliminary matter the US District Court for the Southern District of West Virginia ruled that the incident report and certain other documents related to the hospital's investigation are protected by the peer review privilege from disclosure to the patients' attorneys.

By meeting privately by themselves to discuss the incident the physicians and nurses did not waive the confidentiality of the peer review process.

The peer review privilege protects documents created by and for the hospital's formal peer review process.

The privilege does not protect the patient's medical records or the recollections of witnesses, even if the medical records and the witnesses were the sources of the basic facts used in preparation of privileged documents associated with the hospital's formal peer review process.

Nor does the peer review process apply to the physicians' or nurses' recollections of what was said during their private meeting to discuss the incident apart from the formal peer review process. **Jackson v. US, 2015 WL 5290414 (S.D. W.Va., September 8, 2015).**