

Delivery Of Controlled Substances: Nurse Prosecuted For Falsified MAR's.

A nurse working in a nursing home was charged with illegal processing of drug documentation in violation of the state's controlled-substances law. The court record implied but did not actually state that she was diverting narcotics.

The state's controlled substances law requires detailed documentation of the sale and delivery of drugs.

The nurses did not always directly administer residents' medications.

Sometimes the nursing home was only a go-between from the pharmacy that filled residents' physicians' prescriptions to the residents who took their own meds.

However, even when medications are given to residents to take themselves, full compliance with the detailed documentation requirements of the controlled substances law is necessary.

SUPREME COURT OF OHIO
June 18, 2003

The Supreme Court of Ohio ruled that controlled substances given to nursing home residents to take on their own do come under all the same legal documentation requirements as medications directly administered by the nurses. State v. Peeler, 99 Ohio St. 2d 151, 789 N.E. 2d 624, 2003 Ohio 2903 (Ohio, June 18, 2003).

Latex Allergy: Court Looks For Nurse's Last Injurious Exposure For Work Comp.

The date of injury can be a critical issue in occupational disease cases.

The date of injury determines whether the claim was filed on time and which one of many past employers is responsible for making worker's compensation payments.

A nurse's latex allergy is an example of an occupational disease that brings up these legal issues.

Where an occupational disease results from continual absorption of small quantities of some deleterious substance from the environment of the workplace over a considerable period of time, an afflicted employee can be held to be injured only when the accumulated effects of the substance manifest themselves in disability.

That is the point in time when the employee becomes disabled and entitled to compensation.

The statute of limitations to file for worker's compensation begins to run from the time the employee is partially or wholly disabled by an occupational disease.

SUPREME COURT OF NEBRASKA
July 11, 2003

A nurse's latex allergy may be considered an occupational disease entitling the nurse to worker's compensation.

However, due to the nature of the disease, the legal issues can be very complicated in assigning responsibility to one particular employer for payment of benefits and for determining if the nurse has filed a claim for benefits on time.

In a recent case the Supreme Court of Nebraska ruled a nurse's latex allergy was related to her employment and she was entitled to worker's compensation benefits.

"Last Injurious Exposure" Marks Maturation of Work Comp Claim

For more than twenty years she was exposed to latex gloves in the workplace and had problems with her hands breaking out. A trip to the emergency room for an anaphylactic reaction at the hospital where she worked marked her "last injurious exposure." That was the all-important date her claim fully matured and soon after which it had to be filed or it would be lost. Morris v. Nebraska Health System, 266 Neb. 285, __ N.W. 2d __, 2003 WL 21555314 (Neb., July 11, 2003).

Editor's Note: The essential point of this article may become clearer by comparing it with *Latex Allergy: Court Looks At Timing Of Occupational Exposure versus Filing Of Worker's Comp Claim*, Legal Eagle Eye Newsletter for the Nursing Profession, (11)3, Mar. '03, p.4.

A nurse had a similar anaphylactic reaction on the job at the hospital. Her physician attributed the anaphylaxis to long-term exposure to latex on the job and told her to quit her job at the hospital and find a work situation where she would not be exposed to latex.

She tried unsuccessfully to work in one and then in another doctor's office and then had to quit nursing.

The court ruled it was not proper for the nurse's worker's comp claim for a latex allergy, an occupational disease, to be filed against either doctor's office.