

Cardiorespiratory Arrest: Court Faults Expert's Conclusions, Dismisses Case (Continued).

(Continued from page 1)

The specific language in the report with which the court took issue was:

It is my opinion that Dr. ___ and the nurses violated the standard of care regarding conscious sedation by (1) failing to properly monitor [the patient], (2) failing to timely identify the signs and symptoms of cardiorespiratory arrest and (3) failing to properly institute treatment in a timely fashion upon development of cardiorespiratory complications. These violations of the standard of care by Dr. ___ and the nurses assisting him proximately cause the death of [the patient].

The expert's report had started out by indicating that he was a licensed physician and board-certified and re-certified in surgery as well as certified in advanced cardiac life support. He went on to say he had done over 400 laparoscopic cholecystectomies and had participated in ERCP procedures.

There was no problem with his qualifications. The court rejected his report as conclusory because it only stated a conclusion that negligence occurred without stat-

ing any specifics as to how the physician and the nurses failed to monitor the patient properly, what monitoring took place, what monitoring should have taken place and how the monitoring was insufficient that did take place.

The report did not state what signs of impending cardiorespiratory arrest actually began to appear and should have been identified, or by whom.

The report concluded that resuscitation should have come in a more timely fashion, but that conclusion was stated without defining what would be timely or untimely under the circumstances, without specifying what treatment was instituted, why it was untimely, why it was standard and, again, by which member or members of the team such efforts should have been instituted.

In summary, the court ruled the expert's report stated conclusions unsubstantiated by facts and was insufficient to support a malpractice claim. **Doades v. Syed**, __ S.W. 3d __, 2002 WL 31249906 (Tex. App., October 9, 2002).

Child Abuse: Civil Suit Against Health Care Professionals Thrown Out.

A child was seen by nurses and by a pediatrician at the hospital and seen again two weeks later by nurses and an emergency-room physician.

Then three weeks later the child was severely beaten by her father. He was convicted of first-degree criminal assault.

Physicians, nurses and other healthcare professionals who knowingly and willfully fail to report child abuse as required by law can be held liable in a civil suit for damages caused by such failure.

That is, a healthcare professional can be held responsible if the child goes on to suffer further abuse.

NEW YORK SUPREME APPELLATE DIVISION
October 1, 2002

Measles, Mumps, Rubella (MMR) Vaccine: New Recommendations From CDC Re Pregnancy.

On October 10, 2002 the Centers for Disease Control and Prevention (CDC) published a recommendation in the Federal Register that pregnant women should wait to get the measles, mumps and rubella (MMR) vaccine until after they have given birth.

According to the CDC, women should be advised by caregivers when they administer the MMR vaccine to avoid becoming pregnant for four weeks.

Federal law requires any caregiver administering a vaccine for MMR, diphtheria,

tetanus, pertussis, polio, Hep B, Hib, varicella or the pneumococcal conjugate vaccine to provide the patient at the time of vaccination with a copy of the CDC's current vaccination information materials specific to the vaccine.

Complete information and camera-ready examples of all the current required vaccine information forms are available on the CDC's website <http://www.cdc.gov/nip/publications/vis/>.

FEDERAL REGISTER, October 10, 2002
Page 63106

The New York Supreme Court, Appellate Division, agreed with the jury there was insufficient evidence that the nurses and physicians in the emergency room could have recognized signs of abuse.

The court did state in general terms that healthcare providers must be cognizant they can be sued in these situations.

The court said institutions should provide continuing in-service education for all staff what to look for as potential signs of abuse and what their legal responsibilities are if abuse is suspected.

The court agreed it is not just physicians but nurses and any other healthcare facility staff who can be sued if guilty of knowing and willful failure to report signs of child abuse. **Bowes v. Noone**, __ N.Y. S.2d __, 2002 WL 31172999 (N.Y. App., October 1, 2002).