

Professional Nursing: Court Finds No Nurse/ Patient Relationship, No Liability For Malpractice.

An individual who happened to be an RN was hired as a technician by a company which manufactures and distributes surgically-implanted spinal stimulators used by neurosurgeons in the treatment of chronic back pain.

She was given assignments which included meeting one particular patient several times in doctors' offices to program the device, over a period of at more than six months.

Starting the day after the device was surgically implanted there were concerns over oozing, non-healing and later a purulent discharge from the surgical site which indicated that an ongoing infection was in progress.

She repeatedly counseled the patient that he needed to get back in to see the neurosurgeon, a problem for him because he had not yet paid the bill.

Although she is licensed as a registered nurse, the programming technician did not take it upon herself to provide professional nursing services in managing an apparent infection at the surgical site.

She was not required to confront the patient's neurosurgeon or to report the situation to the medical director of her company, contrary to what was claimed in the patient's lawsuit.

COURT OF APPEAL OF FLORIDA
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The patient kept going to appointments with his pain-management physician and with his primary care physician, but neither of them had a firm grasp on the problem with the infection.

The technician checked back with the patient and with the neurosurgeon's office clerk to see if he had been in.

Eventually the patient became paralyzed from a spinal infection at the surgical site. The Court of Appeal of Florida ruled the patient had no right to sue the RN/programming technician or her corporate employer.

Although she was licensed as a registered nurse she never undertook the role of professional nurse managing the patient's wound-care issues and had no legal duty as his nurse to treat or advocate for him. White v. ANS Systems, Inc., ___ So. 3d ___, 2011 WL 116146 (Fla. App., January 14, 2011).