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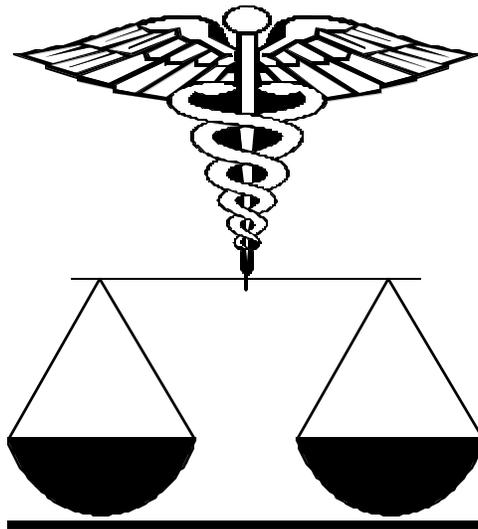
Nurse Practitioners: Patient's Claim Of Negligent Credentialing Upheld By Court.

A woman died from a heart attack the next morning after an improperly credentialed nurse employed by an outpatient clinic sent her home with antibiotics for an ear infection.

The widower sued the clinic. His civil lawsuit at first alleged the nurse was negligent. Later his lawyers amended his lawsuit to include an allegation that the clinic was negligent for failing to ensure that the nurse was properly credentialed as a nurse practitioner when she treated his late wife.

The local judge dismissed the amended allegation of negligent credentialing. The local judge's reasoning was that it was enough for the clinic to prove that the nurse, although her state provisional license as a family nurse practitioner had lapsed because she failed the licensing exam, which she later re-took and passed, was fully qualified by education, experience and advanced-practice certification eligibility to treat the patient in question.

The Court of Appeals of Georgia reversed the local judge's decision. There was no question the nurse was not licensed as a family nurse practitioner. Therefore the widower was entitled to summary judgment that the clinic was negligent for letting her treat patients as a nurse practitioner.



A healthcare facility has a legal duty to provide competent health care providers.

Above and beyond that there is a legal duty to provide health care providers who are duly licensed by the state.

A patient can sue a healthcare facility for negligent credentialing for providing a provider who is competent but not properly licensed.

COURT OF APPEALS OF GEORGIA
October 18, 2002

Competency Was Not The Issue

The widower's attorneys made a formal civil-discovery request for admission that the nurse was not licensed by the state as a family nurse practitioner at the time she saw the patient.

The clinic responded with a recitation of the nurse's other credentials. Her credentials included a master's degree, provisional state licensing as a nurse practitioner pending the results of her state exam and eligibility to sit for certification exams.

The Court of Appeals saw the clinic's round-about answer to the key question as an admission the nurse was not licensed at the time in question. It was negligent for the clinic to have allowed her to practice as a family nurse practitioner without proper licensing, the Court of Appeals ruled.

No Civil Battery

The Court of Appeals, however, did rule that the nurse did not commit a civil battery. The patient consented to be treated by a nurse practitioner and she was not a nurse practitioner. Yet the nurse did not actually state she was a nurse practitioner when she had the patient sign the consent form so the court felt there could be no battery. ***Wellstar Health Systems, Inc. v. Green***, ___ S.E. 2d ___, 2002 WL 31324127 (Ga. App., October 18, 2002).

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