Emergency Room: Court Accepts Unusually Detailed Statement Of The Standard Of Care For Nursing Assessment Of Pediatric Patients.

The parents filed suit after their twenty-two month-old child died from dehydration twelve hours after discharge from the hospital's emergency room.

For the lawsuit the parents' attorneys filed detailed reports containing the expert opinions of a board-certified emergency physician and a certified family nurse practitioner with a faculty position at a major nursing school.

The attorneys representing the defendant emergency physician and emergency nurse practitioner challenged the parents' experts' qualifications as well as the substance of their expert opinions.

The trial judge overruled the challenge, upholding their qualifications and ruling that their opinions were right on the mark on the standards of care for physicians and nurses seeing pediatric patients in the emergency room. The Court of Appeals of Texas agreed that the parents' lawsuit can go forward.

The attorneys filed experts' reports setting out the legal standard of care with an unusual degree of detail.

COURT OF APPEALS OF TEXAS
February 19, 2009

Standard of Care

The standard of care for a Nurse Practitioner (NP) treating a nearly two year-old child in the emergency department with a history of vomiting and diarrhea requires that the NP understand that children with fluid and electrolyte disorders require meticulous diagnostic skills because serious illness may be overlooked with cursory examination or treatment.

The standard of care also requires that the NP obtain specific information from the parent or caregiver regarding the duration, severity and quantity of the vomiting and diarrhea and the order in which the symptoms developed.

Information regarding the presence or absence of fever and the consistency and content of stools should be obtained as well as the child's recent intake, appetite and ability to keep food and fluids down. The NP should also obtain information about whether other family members are ill, whether the child attends day care and whether the child has recently traveled.

The standard of care requires that the NP conduct a physical examination of the child that includes assessment of mental status (including signs of lethargy or anxiety), vital signs on admission and discharge (including temperature, heart rate, respiratory rate and blood pressure), assessment of skin turgor (including whether mucous membranes are moist or dry and whether the eyes are sunken) and a general assessment of the ears, throat, heart, lungs, abdomen and extremities.

The standard of care requires that a weight be obtained with a comparison of the child's usual weight (according to prior records or information from the parents). When there is a significant decrease in the child's weight (i.e. over 6%) and the child appears ill, the standard of care requires that a urine specific gravity and other serum studies (electrolytes, blood urea nitrogen and creatinine) be obtained to clarify the child's actual fluid and electrolyte status.

The standard of care requires that children with moderate dehydration (6% to 9%) be kept in the E.R. (or another supervised setting such as a physician's office or urgent care center) to be given a trial of oral replacement therapy. The dehydration is corrected by giving at least 60-120 ml/hour over several hours. Following this therapy, the child's hydration should be reassessed.

The child should not be discharged from the E.R. until the oral hydration therapy has been successfully given.

If the oral replacement therapy is not successful due to intolerance to oral intake or excessive continued losses, the child should be given IV fluids and evaluated for admission if necessary.

The standard of care requires that NP's be aware that the administration of Benadryl or other medications that cause drowsiness is not indicated for the treatment of vomiting and diarrhea due to acute gastroenteritis.

The NP should be aware that if a child is given Benadryl after discharge, the medication will likely make the child drowsy and the parents will not be able to assess whether the child's mental status and condition is deteriorating due to a fluid and electrolyte imbalance.

The standard of care requires that the NP provide both written and oral discharge instructions to the parent or caregiver.

For a child that has been evaluated for multiple episodes of vomiting and diarrhea that is being sent home, the discharge instructions must include specific information regarding the signs and symptoms of dehydration and the amount and types of fluid the child should be given at home.

The discharge instructions should indicate potential signs of worsening dehydration such as: dry lips and mouth, a dark color or a strong smell to the urine, not urinating very often or very much, little or no tears when crying, sunken eyes, not paying attention to toys or television, being difficult to wake up, vomiting up nearly everything he/she drinks or eats or feeling thirsty but drinking liquids makes the child vomit.

For a child with mild dehydration the discharge instructions should include information to give the child one or two teaspoons every 5 minutes (approximately 1-2 ounces per hour) of an oral rehydration solution; if the child does well, give bigger sips a little less often (every 5-10 minutes). Continue until the child is no longer thirsty, has adequate urinary output and is not showing any signs of dehydration.

(Continued on next page.)

Emergency Room: Pediatric Assessment, Care, Nausea, Vomiting, Dehydration (Continued).

(Continued from previous page.)

Deviations from Standard of Care
Pediatric Nurse Practitioner

The NP fell below the standard of care and was negligent by failing to recognize that the child was at least moderately dehydrated and required, at a minimum, oral replacement therapy to be given in the E.R.

The NP failed to obtain vital information from the mother including the duration, quantity and contents of the child's vomiting and the quantity, frequency and consistency of her stools over the past few days.

She also fell below the standard of care by failing to obtain and document information regarding the amount of the child's oral intake, appetite and urinary output over the past few days.

The NP fell below the standard of care by failing to obtain and document information regarding whether other family members were ill, whether the child attended day care and whether she had traveled recently.

The NP fell below the standard of care and was negligent by failing to obtain an adequate physical assessment of the child.

The NP did not adequately assess the child's mental status. She did not document the presence or absence of lethargy or anxiety. Documenting that a 21-month old is "alert and oriented" is not adequate.

The NP fell below the standard of care by failing to obtain the child's respiratory rate, blood pressure and oxygen saturation upon admission to the emergency room.

She also failed to meet the standard of care by allowing the child to be discharged without a second set of vital signs including temperature, heart rate, respiratory rate and blood pressure.

The NP was negligent by failing to assess and document the child's skin turgor including whether her eyes were sunken.

The NP deviated from the standard of care and was negligent when she failed to compare the child's usual weight with the weight obtained in the E.R. The mother informed the staff that the child's weight was down three pounds compared to the last weight done in her pediatrician's office. This weight reduction is consistent with severe dehydration because it indicates that the child had a nearly 11% weight reduction.

Since the child appeared ill and anxious and had a weight reduction consistent with severe dehydration, the NP was negligent when she failed to obtain lab studies (including urine specific gravity and if abnormal serum electrolytes, serum creatinine and serum BUN). If she had, the child's urine specific gravity and blood urea nitrogen more than likely would have been consistent with moderate to severe dehydration.

The NP was negligent when she discharged the child from the E.R. rather than initiating oral replacement therapy with oral rehydration solution (such as Pedialyte) over several hours.

The NP fell below the standard of care and was negligent when she instructed the mother to give the child Benadryl 6.25 mg every six to eight hours and when she failed to give specific written instructions about the signs and symptoms of worsening dehydration (as listed above) and to return to the E.R. if the child did not tolerate the oral replacement therapy at home (approximately one cup or more per hour until bedtime) or if she did not have an adequate urinary output (i.e. wet diapers).

Nurse Practitioner's Negligence
As Cause of Child's Death

The child had vomiting and diarrhea secondary to acute gastroenteritis and was moderately to severely dehydrated and needed treatment to replace her fluid deficit.

The autopsy findings constitute overwhelming evidence that the child's death was more than likely proximately caused by inadequately treated dehydration. The medical examiner found that the child appeared dehydrated with markedly sunken eyes, had dry appearing conjunctivae, had no urine in her bladder and had a postmortem BUN consistent with severe dehydration (57 mg/dL).

The comparison of the child's weight just prior to her death to her usual weight indicates that she was more than likely moderately to severely dehydrated while she was in the E.R.

The child also had fungal esophagitis, but this infection does not usually cause any significant problems and can easily be treated with an oral antifungal medication.

Fungal esophagitis did not cause the child's death although it may have caused her to experience pain upon swallowing.

The inadequate history and physical examination that was taken by the NP and the emergency room nurse caused the child's death.

If the NP, the physician or the emergency room nurse would have obtained an adequate history from the mother about the quantity and frequency of her vomiting and diarrhea, the NP, the physician or the emergency room nurse more than likely would have realized that the child was moderately to severely dehydrated and needed a trial of oral replacement therapy in the emergency room.

If the NP, the physician or the nurse had noted the child's respiratory rate and taken her blood pressure and conducted an adequate physical examination (including assessment of skin turgor) the NP, the physician or the nurse more than likely would have realized that she was moderately to severely dehydrated and needed the trial of oral replacement therapy in the emergency room, and if unsuccessful, intravenous fluids with possible admission to the hospital.

The Court went on to endorse the board certified emergency room physician's opinions as to the standard of care for an emergency physician supervising a nurse practitioner in the emergency room when caring for a dehydrated pediatric patient, finding that the physician's deviation from that standard of care also contributed to the unfortunate outcome. **Benish v. Grottie, __ S.W. 3d __, 2009 WL 417264 (Tex. App., February 19, 2009).**

More legal Information for nurses is available at Legal Eagle Eye Newsletter for the Nursing Profession Home Page.