

Peripherally Inserted Central Catheter: Nurse Accepted As Medical Expert, Nurse Who Put In Line Ruled Negligent.

A seventy-three year-old man was admitted through the E.R. with chest pains. He had a lengthy medical history of ischemic cardiomyopathy.

His physicians ordered a central venous line for antibiotics for a urinary tract infection. A peripherally inserted central catheter was inserted by a staff nurse.

The catheter improperly looped back into the subclavian artery rather than lodging in the superior vena cava. It was not discovered for twenty-two hours.

A few days later he died of an acute myocardial infarction. His probate estate sued the hospital for wrongful death.

Nurse as Medical Expert

The county circuit court judge dismissed the lawsuit believing the estate's lawyers failed to file a proper expert witness report as required by state law.

The District Court of Appeal of Florida reversed that decision and reinstated the case. A nurse with advanced-practice standing in critical care and cardiac care should have been allowed to testify that the line was inserted negligently and that it contributed to the patient's demise.

The legal rule had held it to be the sole province of physicians to testify as to medical cause and effect.

Nursing Negligence / Central Line

The nursing expert faulted the staff nurse for not measuring the line so as to be able to know the exact length that had been inserted. That, the nursing expert said, would have made the nurse realize the line might not have seated in the superior vena cava and prompt medical follow-up was indicated.

The nursing expert also believed the line's presence in the subclavian artery explained a documented spell of tachycardia and believed that that precipitated the fatal MI. ***Apostolico v. Orlando Regional Health Care System, Inc.***, __ So. 2d __, 2004 WL 587660 (Fla. App., March 26, 2004).

As a general rule nurses are not accepted by the courts as expert witnesses in healthcare-related malpractice cases.

The law takes the position that only physicians have the ability to diagnose and treat human ailments. Nurses can observe, assess and evaluate patients. Nurses cannot diagnose patients or prescribe medical treatments and are limited to following treatments ordered by physicians.

However, when the specific issue is nursing negligence, nurses can testify as to the nursing standard of care. Expert medical testimony from a physician is still necessary to establish a cause-and-effect link between nursing negligence and the specific harm that befell the patient.

This case is different. The patient's estate's nursing expert has advanced-practice training and experience in critical care and cardiovascular services. She qualifies as a medical expert.

DISTRICT COURT OF APPEAL
OF FLORIDA
March 26, 2004

Patient Abuse: No Physical Injury Required For Criminal Charges.

Two aides were trying to seat an Alzheimer's patient in her geri chair. They got her to sit down, but she kept leaning forward, making it difficult to slide the tray into place.

One of the aides abruptly pushed the patient backward. She hit her head on the back of the chair and screamed.

The aide was reported to the police and was convicted of patient abuse.

Abuse is knowingly causing harm to a resident of a care facility by physical contact with the person.

Harm does not require tangible physical injury such as a bruise or cut.

Pain does not have to be shown by an outward physical manifestation, to constitute physical harm.

COURT OF APPEALS OF OHIO
March 31, 2004

The Court of Appeals of Ohio upheld her criminal conviction.

A cut, bruise or other mark may provide conclusive proof of abusive contact by a caregiver, but no outward evidence of injury is necessary to prove that abuse has occurred if other evidence is available.

The other aide testified what happened, that the patient was treated roughly and seemed to have suffered some pain. That was sufficient evidence.

The patient herself did not testify, according to the court record. There was no legal bar against her testifying, but an Alzheimer's patient's testimony would tend to be discounted in a situation requiring proof beyond a reasonable doubt. ***State v. Lohr***, 2004 Ohio 1609, 2004 WL 626053 (Ohio App., March 31, 2004).