

Periventricular Leukomalacia: Nurses Ruled Not Liable.

The pregnant mother was admitted to the hospital from another hospital's E.R. following spontaneous rupture of her membranes at twenty-nine weeks.

After an hour the obstetrician discontinued continuous fetal monitoring. He decided that once labor actually started the fetus would be delivered via cesarean section because it was in breech position.

The patient rested from 3:10 a.m. to 9:23 a.m. without continuous fetal monitoring. An hour after it was resumed, fetal bradycardia was detected and the cesarean delivery went forward. After birth the infant was diagnosed with periventricular leukomalacia, a form of anoxic brain damage which has resulted in cerebral palsy.

It was not clear before the fact that continuous fetal monitoring was needed before labor had started.

The nurses properly followed the obstetrician's orders which were not so clearly contraindicated as to require the nurses to question his orders or initiate the chain of command.

NEW YORK SUPREME COURT
APPELLATE DIVISION
April 2, 2015

The New York Supreme Court, Appellate Division, ruled the labor and delivery nurses were not negligent. There has not yet been a ruling on the obstetrician's clinical decision to suspend continuous fetal monitoring and delay the cesarean.

The nurses complied with the obstetrician's orders. Those orders were not so clearly erroneous or contraindicated by the circumstances that a legal duty arose for the nurses to question the orders or initiate the hospital's chain of command to get another physician to countermand his decisions. Hoad v. Dolkart, __ N.Y.S.3d __, 2015 WL 1470761 (N.Y. App., April 2, 2015).

EMTALA: Hospital Not Liable For Miscarriage After E.R. Visit.

The pregnant patient came to the emergency department at 2:00 a.m. complaining of cramps, fluid leakage and the onset of labor contractions every thirty seconds. The patient's complaints were documented along with her obstetric health history and her vital signs.

Labor and Delivery Nurse Assigned to Patient's Screening

A labor and delivery nurse was assigned. The nurse palpated the abdomen for contractions and found the uterus was relaxed. The patient was monitored for over an hour with a tocodynamometer which confirmed the absence of labor contractions. The fetal heart rate was 170 beats per minute. A Nitrazine test was negative for amniotic fluid.

The labor and delivery nurse phoned the patient's obstetrician. The obstetrician ordered an AmniSure test to confirm the membranes had not ruptured, which was confirmed. The obstetrician also ordered urinalysis and the antibiotic Keflex.

The patient was discharged in apparently stable condition at 3:45 a.m. with instructions to contact her physician or to return to the hospital if she had certain symptoms.

Miscarriage 35 Hours After Discharge

The patient went to another hospital's emergency department while having a miscarriage. Her obstetrician told her nothing could have been done to prevent the loss of her pregnancy at 19-20 weeks apparently caused by premature rupture of her membranes after she left the first hospital.

No EMTALA Violation

The US District Court for the Western District of Michigan ruled the first hospital did not violate the US Emergency Medical Treatment and Active Labor Act.

The patient was given a fully appropriate medical screening examination to determine if she had an emergency medical condition or was in active labor.

There was no error or omission by the labor and delivery nurse to which the miscarriage could be linked, in the Court's judgment. Mixon v. Bronson, 2105 WL 1477754 (W.D. Mich., March 31, 2015).

MRSA: Patient's Disability Discrimination Case Dismissed.

When the patient came to the outpatient pain clinic for a scheduled appointment the nurse who was taking her vital signs was informed that the patient had a MRSA colonization.

The nurse reportedly "went flying out of the room" when she heard that. Soon another clinic employee came to the room, criticized the patient for coming to the clinic and putting the clinic's pregnant nurses at risk and then told the patient to leave the building immediately.

The patient sued the clinic for disability discrimination based on her MRSA colonization, fibromyalgia and chronic pain syndrome.

A medical clinic is a place of public accommodation which cannot discriminate against a patient on the basis of the patient's disability or fail to make reasonable accommodation to a patient's disability.

UNITED STATES DISTRICT COURT
WEST VIRGINIA
March 4, 2015

The US District Court for the Southern District of West Virginia cited an epidemiology surveillance website that describes Methicillin Resistant Staphylococcus Aureus (MRSA) colonization as a condition in which the individual carries the bacteria on his or her body but displays no signs of illness or infection.

The Court ruled that the patient failed to prove that her MRSA colonization, the specific reason she was refused care, fits the legal definition of a disability. A disability is a physical or mental impairment that substantially limits one or more major life activities of the disabled individual.

Without having to judge the nurse's actions, the Court could dismiss the case simply because there was no proof of disability discrimination. Surratt v. Pain Clinic, 2015 WL 965694 (S.D. W. Va., March 4, 2015).