

# LEGAL EAGLE EYE NEWSLETTER

April 1996

*For the Nursing Profession*

Volume 4 Number 7

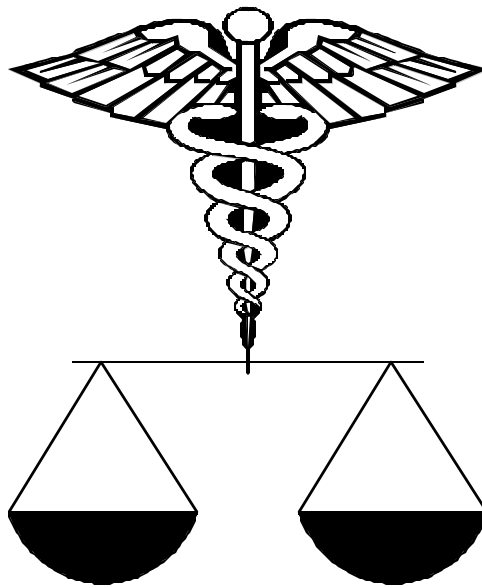
## Family Nurse Practitioner Ruled Liable For Missed Diagnosis of Breast Cancer.

**A** family nurse practitioner saw a patient in January, 1991. The patient reported that for several months she had had a discharge and constant scabbing of one of her nipples. The nurse ordered topical and oral antibiotics for what she diagnosed as an infected nipple and a mammogram which was negative.

She returned in July, 1991 with continuing pain and discharge from the same breast. The nurse practitioner asked her to see a dermatologist. The nurse just assumed the patient would see the dermatologist, and further assumed he would biopsy the affected area. The nurse practitioner did not discuss a biopsy with the patient to rule out cancer or check whether she saw the dermatologist and had a biopsy.

In October and November, 1991 the patient saw her gynecologist, in a different clinic than where the nurse practitioner practiced. He treated her symptomatically with antibiotics and creams, and falsely reassured the patient she did not have cancer.

The patient continued to see the nurse practitioner and the gynecologist through February, March and April, 1992. In September, 1992 the patient returned to the nurse practitioner with unmistakable multiple masses in the breast.



***The family nurse practitioner, as well as the physicians, were negligent for failing to recognize possible signs of breast cancer, over-emphasizing to the patient the possibility of a mere infection, not referring the patient for a biopsy and not following up to see that a biopsy had in fact been done to rule out cancer.***

SUPREME COURT OF VIRGINIA, 1996.

A surgical oncologist found the cancer had aggressively invaded the lymph nodes. The patient soon died from her disease. The family sued.

The Supreme Court of Virginia accepted medical testimony that the cancer, Paget's Disease, has a 90% five-year survival rate, if operated upon before it invades the lymph system through the breast. The critical and fatal progression of this patient's disease occurred, the court determined, during the period the patient was under the care of the nurse practitioner.

The nurse practitioner, as well as the patient's family practice physician and gynecologist, did not live up to the legal standard of care with this patient, according to the court.

The court ruled a family nurse practitioner who knows of a patient's history of breast problems must perform breast examinations and ask the patient about any specialized medical treatment or diagnostic services she is receiving, even when the patient does not specifically complain about her condition or mention the other care she is getting.

A nurse practitioner can be liable if Paget's Disease is not caught while it is still highly treatable, the court stated. ***Jenkins vs. Payne***, 465 S.E. 2d 795 (Va., 1996).

**Inside this month's issue ...**

**April 1996**

Nurse practitioners p.1 Sexual assault p.2  
Sexual harassment p. 2 Patient restraints p.3  
EMTALA: Screening, stabilization, transfer p.4 Blood test p.5  
Sponge counts p.5 Nurse midwives p.5 Visitor's fall p.5  
Sick leave p.6 Recreational injuries p.6 Pharmacy orders p.6  
Skilled nursing care p.7 Confidential records p.8