

Quality Assurance: Nurse Manager's Investigation Notes Are Not Proper Evidence In Trial, Court Says.

A woman arrived at a rural hospital in labor. After getting someone's attention and getting them to unlock the door she was taken to a birthing room. The nurses told her not to push while they got a doctor to come to the room.

The cord was wrapped three times around the baby's neck with a hand entwined. The nurses followed procedures for a complicated delivery by phoning a pediatrician to come to the hospital.

The result was a child with severe cerebral palsy from birth hypoxia. The parents sued. Their lawsuit claimed the hospital staff reacted too slowly to the complications involved in this birth and should have transferred the mother and child to a tertiary care facility.

The day it happened the hospital's nurse manager called a nursing quality assurance meeting to interview all those involved looking for potential deficits in nursing practices at the hospital that would require her immediate attention in the interest of providing better care.

Handwritten notes from a nursing quality assurance meeting convened specifically to investigate the circumstances of the baby's birth are a privileged communication.

Gathering information to report as candidly as possible to the pediatric medicine committee whether improvement is indicated cannot be hampered by fear the notes will be used against the hospital in a lawsuit.

UNITED STATES COURT OF APPEALS,
TENTH CIRCUIT, 2001.

The family's lawyers asked the Federal District Court to order the hospital to turn over the nurse manager's notes from the meeting. The lawyers wanted to see if the notes pointed to evidence of negligence by the physicians and nurses.

The court refused, noting that state and Federal laws prohibit healthcare quality assurance documents from being examined by patients' lawyers or used as evidence in malpractice lawsuits.

The US Circuit Court of Appeals for the Tenth Circuit agreed. The notes were a privileged document. They pertained strictly to quality assurance. They were not patient treatment records, which the courts routinely make available to lawyers.

The jury found no negligence by the doctors and nurses. **Nalder v. West Park Hospital**, 254 F. 3d 1168 (10th Cir., 2001).

Patient's Treatment Records: Court Finds No Basis For Quality Assurance Privilege, Opens Files To Lawyers.

The patient's lawyers filed a complex civil lawsuit against a nursing home alleging multiple counts of negligence.

The suit claimed the patient got serious decubitus ulcers through substandard care given by inadequately trained staff, the whole situation being exacerbated by poor nutrition and hydration. The patient died a few days after the suit was filed.

The patient's lawyer demanded copies of all the patient's charts and records, copies of every other patient's charts and records during the four years she was there, the names of all employees and their personnel records. The lawyer's theory of the case was a system-wide failure of care.

The nursing home resisted, claiming all the requested documents came under the peer review/quality assurance privilege.

The patient's lawyers demanded copies of all the treatment notes for the entire time the patient resided at the nursing home.

The nursing home claimed the records were exempt from discovery under the quality assurance privilege.

The nursing home had no grounds to claim the patient's basic medical records were in any way related to quality assurance.

SUPREME COURT OF ALABAMA,
2000.

The Supreme Court of Alabama ruled against the nursing home on that issue and has not ruled one way or the other on the allegations of negligence.

The court ordered all of this patient's records turned over to the patient's lawyer. No other patients' records were to be turned over, as they are confidential and are not relevant to what happened to this patient even if they revealed poor care being given to other patients.

It was legitimate for the lawyer to demand the names and contact information for all employees who worked there while this patient was at the nursing home.

The nursing home had the obligation to come forward with proof the requested documents were part of its internal quality assurance process, and had no such proof. **Ex Parte Coosa Valley Health Care, Inc.**, 789 So. 2d 208 (Ala., 2000).