Quality Control Reports: Court Rules Ordinary Incident Reports Are Not Covered By Quality Review Privilege.

The patient's bladder was injured during gynecological surgery at the hospital's ambulatory facility and she had to be transported to the hospital itself for a second surgery to repair the damage.

The patient sued the hospital and the surgeon for malpractice.

During the pendency of the patient's lawsuit it came to light that three nurses who were involved either in the first or the second procedure had filled out and handed in quality control reports to the hospital's risk manager.

The patient's attorneys wanted to see the nurses' reports. The hospital refused to obey a lower court order to turn the reports over to the patient's attorneys and appealed the lower court's order.

The Appellate Court of Illinois ruled the nurses' reports were garden-variety incident reports and are not protected by the quality assurance or peer-review privilege. However, the Appellate Court did lift the hospital's contempt citation.

Reports Were Not Prepared For Deliberations of the Quality Review Committee

The telling point for the Court was that when the nurses prepared their reports they did not do so in response to a specific request from the hospital's quality assurance committee with reference to a specific matter that had already been brought to the committee's attention and was already under investigation or deliberation by the committee.

Instead, the reports were incident reports prepared in the ordinary course of business as to matters the nurses believed they should alert higher-ups at the hospital.

Broadly applying the quality assurance or peer review privilege to what amount to ordinary incident reports, the Court said, would improperly allow a hospital basically to shield every bit of information about a legal case not contained in the patient's own medical chart from discovery in litigation. **Nielsen v. Swedish, __ N.E.3d __, 2017 WL 2705757 (Ill. App., June 23, 2017).**

The quality control reports at issue in this case involving a patient's surgical complications were prepared and submitted by three nurses before the hospital's quality assurance committee was aware of the incident with this patient and had taken the incident under its consideration.

The committee did not specifically request the reports for a matter that was before the committee when the reports were written.

The hospital's quality assurance committee had asked hospital staff to fill out and submit quality control reports for so-called medical occurrences.

A medical occurrence would be something that related to patient morbidity and mortality like a blood transfusion, code, patient complaint, discharge planning, fall, injury, infection or medication or lab test error.

Hospital personnel were also asked to fill out and submit quality control reports for non-medical occurrences like slips and falls, property loss or damage and vehicular accidents on hospital grounds.

APPELLATE COURT OF ILLINOIS
June 23, 2017

Critical Care: Court Sees No Nursing Negligence.

A young man was ejected and lay in a ditch beside the highway for almost two hours following an early-morning single-vehicle accident before emergency responders transported him to the hospital by ambulance.

At the hospital he was cared for continuously by two emergency department nurses and the emergency department physician before he was handed off to other personnel who transported him by helicopter to another hospital where he succumbed to his massive injuries.

The family sued the first hospital, claiming that negligence by its nurses and physician contributed to his death.

Whether or not the nurses documented their interventions was irrelevant to the outcome of this critical-care case. The nurses were constantly with the patient and were continuously speaking directly with the physician.

Whether the patient should have been intubated or blood started sooner was not a decision the nurses were expected to make.

UNITED STATES DISTRICT COURT
CALIFORNIA
June 30, 2017

The US District Court for the Northern District of California found no nursing negligence at the first hospital.

The nurses were not expected to advocate with the emergency physician for intubation or to start blood sooner because it was an unfolding critical-care episode where the emergency physician was continuously present and fully aware of the situation. Intubation or starting blood products is a medical intervention and not a nursing responsibility. **Sampson v. Ukiah, 2017 WL 2834001 (N.D. Cal., June 30, 2017).**