

Surgical Complications: Court Says Nurse Had No Legal Duty To Intervene During Procedure.

A registered nurse or certified surgical technician is not responsible for deciding whether electrohydraulic lithotripsy is or is not an accepted modality of treatment in the situation that was encountered by the urologist in this case.

It would not be within the scope of their practice to make such a decision.

A decision of that nature is considered the practice of medicine and is not an area in which a fully qualified nurse or surgical technician is expected to have relevant education.

It was not contrary to the legal standard of care for the surgical nurse or the surgical technician in this case not to attempt to intervene in some fashion when the urologist chose that modality of treatment to attempt to alleviate the unexpected problem he perceived he was facing.

It would be outside the scope of nursing practice for a nurse to attempt to interfere with the surgeon in the midst of an ongoing surgery to prevent the surgeon from doing what the surgeon deemed necessary to address unforeseen complications.

APPELLATE COURT OF ILLINOIS
May 29, 2015

A CT scan during an E.R. visit for abdominal pain revealed a stone in the patient's left kidney. She was given pain meds and was seen by a urologist.

Five days later she saw the urologist again. He recommended readmission to the hospital the next day for a diagnostic uteroscopy. While under general anesthesia in the hospital a fiberoptic tube would be inserted into her bladder and then through her ureter up to her kidney to determine the cause of her continuing pain.

For the procedure the urologist was assisted by a registered nurse and a surgical tech from the hospital. They were the only personnel in the operating room.

The urologist visualized a kidney stone which he believed could be pulled out with the basket at the end of the uteroscope. However, the stone proved to be too large and it got stuck at the junction of the ureter and the kidney.

At this point the urologist decided to use an electrohydraulic lithotripsy device to attempt to break the stone into smaller pieces. When the patient's ureter was torn the urologist aborted the procedure, leaving kidney stone fragments and items of surgical hardware inside the patient.

Two weeks later another procedure was done to remove and repair what had been left behind. Over the ensuing months the patient had additional surgeries and eventually the kidney had to be removed.

The patient died from a pulmonary thromboembolism her family's medical expert in the ensuing litigation related to surgical complications.

Surgical Nurse

Not Expected to Intervene

After the urologist settled with the family the Appellate Court of Illinois dismissed the hospital from the case.

The Court accepted the hospital's nursing expert's testimony. It was not within the scope of the surgical nurse's practice to question the urologist's decision to use the lithotripsy device. Nor would it have been appropriate for her to attempt to disrupt an ongoing surgical case. ***Essig v. Advocate***, ___ N.E. 3d ___, 2015 Ill. App. (4th) 140546 (Ill. App., May 29, 2015).

Trip On Call-Light Cord: Court Lets Case Go Forward.

An adult child was visiting her father in the hospital and was assisting a nurse giving her father a sponge bath in his hospital bed when the daughter tripped on the call-light cord, fell and sustained personal injuries.

The daughter claimed she did not know about the cord's presence because it was covered by a blanket in a confined space at the side of the bed in a dimly lit hospital room.

The local county court of common pleas gave the hospital a summary judgment dismissing the daughter's lawsuit.

Family members visiting a patient in the hospital are considered the hospital's invitees under the law.

Invitees are entitled to be warned about hazards on the premises that may jeopardize their safety.

However, the hospital's duty to warn invitees does not apply to hazards which are open and obvious.

The open and obvious nature of readily apparent hazards serves as a sufficient warning to invitees.

COURT OF APPEALS OF OHIO
June 11, 2015

The Court of Appeals of Ohio ruled instead that it is a jury question whether the hazard created by the cord's presence was an open and obvious danger, for which the hospital's nurse had no legal duty to warn the daughter, or a hidden danger whose presence the daughter would not be expected to anticipate, thus creating a legal duty to warn her.

The hospital refused to tell daughter's attorneys the dimensions of the room and the bed and the distance between the bed and the wall, which the Court felt was not proper. ***Abdelshahid v. Cleveland***, 2015 WL 3647112 (Ohio App., June 11, 2015).