

Post-Op Nursing: Failure To Report Signs Of Cardiac Tamponade To Physician.

Signs of cardiac tamponade were picked up by the staff nurse as she began to assess a patient who had just had a central venous pressure catheter inserted into the right internal jugular vein after gastric bypass surgery, before coming to the intensive care unit. Although not known at the time, the catheter had punctured and become embedded in the heart muscle, according to the court record. His heart rate had quickly risen to 120 from a baseline in the 70's which was charted right after the CVP device was inserted. The nurse was also concerned about rising CVP readings, and by the marginal output of urine. A pulse monitor, set at 140, went off several times in twenty minutes.

The nurse promptly reported her concerns to the charge nurse. The staff nurse explicitly stated she believed there were early signs of cardiac tamponade.

The charge nurse dismissed the patient's rising pulse rate as a sign of "restlessness" and refused to call the physician. After an hour, the staff nurse got the physician's phone number and tried to call him herself, but was stopped by the charge nurse, who told her to return to her station and said she herself would make the judgment when to call the physician. The charge nurse called a resident an hour later. The resident got a cardiologist there in five minutes. Surgery was too late to save the patient from permanent brain damage.

The Supreme Court of Illinois ruled that sound nursing practice calls for nurses to recognize the signs of life-threatening post-operative complications and to summon appropriate medical personnel promptly. The court approved a substantial award of damages in a civil suit against the hospital, for the charge nurse's negligence. **Holston vs. Sisters of St. Francis**, 650 N.E. 2d 985 (Ill., 1995).

Retaliatory Discharge: Hospital Nursing Director Wins Suit Over Being Fired For Her Complaints Of Physician Misconduct.

Physicians must document patients' charts properly to permit nurses to formulate correct care plans. Nurses have the legal right to complain when such documentation is not done.

Failure of a physician to document patients' charts properly and/or failure to obtain informed consent prior to invasive procedures is a violation of various laws and administrative rules and regulations.

An employer may not take retaliatory action against an employee who objects to or who refuses to take part in any activity, policy or practice which constitutes an actual violation of law, rules or regulations.

An employer may not take retaliatory personnel action against an employee because the employee discloses, or threatens to disclose, to a supervisor or to a public body, an activity, policy or practice of the employer that is in violation of a law, rule or regulation, if the violation creates and presents a substantial and specific danger to the public health or safety.

NEW YORK SUPREME COURT,
APPELLATE DIVISION, 1995.

Anurse employed by a hospital as vice president for nursing received complaints from staff nurses that bronchoscopic procedures were not being performed by a staff physician. Assuming, however, the procedures were being done, surgical consents were not being obtained, nor were proper post-op physician's notes being written. She relayed these concerns to the director of medicine. Meetings of the physicians' governing board at the hospital considered the allegations. Instead of corrective action against the physician involved, a decision was made to terminate the vice president for nursing.

The New York Supreme Court, Appellate Division, upheld a substantial award of damages for the nurse for past lost salary and benefits, as well as full compensation for the fees of the attorneys who represented her in the suit. In addition, the hospital was ordered by the court to reinstate the nurse to her former position as vice president for nursing. Since she was to be reinstated, the court did not award damages for future loss of salary and benefits.

State law protects "whistleblowers" from retaliatory employer conduct. The court accepted testimony of several nurses and a physician that bronchoscopic procedures can be hazardous to patients, and thus require informed consent signed by the patient, as well as proper chart documentation for post-operative nurses to care for the patient. Failure of the physician to get informed consent and to document the chart violates the law and creates a substantial and specific danger to the public health and safety. Nurses' complaints over these issues are protected by the state "whistleblower" law. The employer cannot take retaliatory action under these circumstances, without facing liability in a lawsuit by a nurse subjected to retaliatory action. **Kraus vs. New Rochelle Hospital Medical Center**, 628 N.Y.S. 2d 361 (N.Y. App., 1995).