

Unnecessary Procedures: Court Puts Responsibility On Nurses To Report Physician's Actions.

There has been no definitive ruling that the medical center or any of its nurses, physicians or other staff are guilty of any wrongdoing.

At this point in the litigation the US District Court for the District of Maryland has merely ruled that the allegations raised by thirteen patients would be valid grounds for a lawsuit, at least theoretically.

The patients' lawsuit has survived a major hurdle and they will get their day in court to see if they can prove their cases.

What Is the Nurse's Responsibility?

In its legal brief the medical center posed the following hypothetical question:

Assume that "Nurse Jones" knew or should have known at some point in time before each patient's procedure that this doctor regularly and repeatedly performed unnecessary procedures.

Does "Nurse Jones" owe a legal duty to the doctor's future, unidentified and unknown patients to report the concerns that "Nurse Jones" has?

The Court ruled, first of all, that the hospital's hypothetical question about future, unidentified, unknown patients is an attempt to dodge the real issue.

A nurse owes a duty directly to the patient currently under the nurse's care to report the nurse's concerns through appropriate channels if the patient undergoes an unnecessary medical procedure.

Secondly, for what it is worth, according to the Court, the simple answer to the hospital's hypothetical is "Yes."

Nurses who stood by silently yesterday or last year while unnecessary procedures went ahead would be responsible to today's patients whose safety is threatened by the behavior of a physician who was not reported and stopped from doing further unnecessary medical procedures.

The Court said there is no direct legal precedent in Maryland on the issue raised in this case, but courts in other US jurisdictions have imposed legal duty and legal liability on nurses under the same circumstances. **Baublitz v. Peninsula Regional Med. Ctr.**, 2010 WL 3199343 (D. Md., August 12, 2010).

Thirteen patients have joined a lawsuit against the medical center alleging that the center's nurses, technicians and other staff in the cardiac catheterization lab "worked hand in hand" with a certain cardiologist and knew or should have known what he was doing.

The cardiologist is alleged to have performed a vast number of cardiac catheterization and stent placement surgeries based on dramatic overstatements of the findings from cardiac stress tests and diagnostic imaging studies.

The center's nurses and technicians participated in the allegedly unnecessary and non-indicated procedures and failed to prevent or report the physician's actions.

The lawsuit also faulted the medical center's physician credentialing committee for failing to stop the physician but instead rewarding him with larger time blocks in the cath lab.

The weight of legal authority is that nurses and other staff owe a legal duty to the patient under their care and to potential future patients to report the physician.

UNITED STATES DISTRICT COURT
MARYLAND
August 12, 2010