

## CDC: Proposed New Vaccine Information Statement.

On January 9, 2015 the US Centers for Disease Control and Prevention (CDC) announced a proposed updated Vaccine Information Statement titled “Your Baby’s First Vaccines: What You Need to Know.”

Substitution of the proposed new version in place of the current version is not mandatory at this time. The CDC is accepting public comments until March 10, 2015.

Federal law requires any healthcare provider in the US to provide a copy of relevant vaccine information materials to the patient, parent or guardian prior to administration of vaccines for diphtheria, tetanus, pertussis, measles, mumps, rubella, polio, Hep A, Hep B, Hib, varicella, pneumococcal conjugate, rotavirus, HPV and seasonal influenza.

Information from the CDC is available at <http://www.cdc.gov/vaccines/hcp/vis/index.html>

We have the CDC’s January 9, 2015 announcement at <http://www.nursinglaw.com/CDC010915.pdf>

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## Patient’s Rights: Rehab Facility Is Not A Nursing Home.

A former patient who had been treated in a comprehensive rehabilitation facility sued the facility claiming, among other things, that his rights were violated as guaranteed by Federal and state nursing home patients’ rights laws.

It was not clear from the court record what specific errors or omissions transpired in the facility that gave rise to the patient’s allegations.

The Superior Court of New Jersey, Appellate Division, dismissed the portion of the patient’s lawsuit having to do with violation of his rights as a nursing home patient.

After an extensive review of the legislative history, the Court ruled that a comprehensive rehabilitation facility is not a nursing home.

Nursing home patients’ rights laws are meant to deal with the particular vulnerabilities of nursing home patients, who typically are elderly, physically and mentally infirm and often require total care. Many have no surviving family and suffer from severe social isolation. Their physicians play only a minimal role in their care. ***Bermudez v. Kessler Inst.***, \_\_\_ A. 3d \_\_\_, 2014 WL 7482318 (N.J. App., January 8, 2015).

## Whistleblower: Court Upholds Nurse’s Rights, Fired For Reporting Abuse Of Elderly Patient.

A hospice nurse who went into nursing homes to render hospice services to certain residents took cell phone pictures of bruises on an eighty-one year-old patient of hers and then shared the photos with the nursing home’s director of nursing and the resident’s children.

She was terminated by her employer, the hospice agency, for not first reporting her findings to her own supervisor at the hospice agency as required by the agency’s policies.

The Supreme Court of Ohio ruled the hospice nurse qualified as a whistleblower and could sue her former employer, the hospice agency, for retaliation and wrongful discharge. In Ohio, the Court said, a report which qualifies as whistle blowing does not have to go to the Department of Health.

***State laws protect healthcare employees who report abuse or neglect of vulnerable patients.***

***However, laws vary widely from state to state as to how and to whom the report must be made for the reporting healthcare employee to be protected as a whistleblower.***

***Any potential whistleblower should get legal advice before going ahead.***

SUPREME COURT OF OHIO  
December 23, 2014

The Court’s having to wrestle with that question points out the legal risks healthcare employees face when having to report abuse or neglect of a patient or other wrongdoing encountered in the course of professional practice.

State laws vary widely in the requirements healthcare employees must meet for their actions to qualify them as true whistleblowers with legal rights.

In some states it is enough to complain to a supervisor that something is wrong. In other states the complaint has to be made to the state or Federal governmental agency that has the authority to do something about it. The subject of the complaint usually must be an error or omission that is a clear violation of a specific statute or government regulation. ***Hulsmeyer v. Hospice***, \_\_\_ N.E. 3d \_\_\_, 2014 WL 7322872 (Ohio, December 23, 2014).