

LEGAL EAGLE EYE NEWSLETTER

January 2015

For the Nursing Profession

Volume 23 Number 1

Labor & Delivery: Court Finds Nurses' Care Was Appropriate, Dismisses EMTALA Case.

The patient was twenty-nine years old, weighed 221 lbs, stood 5' 4" and was pregnant with her first child.

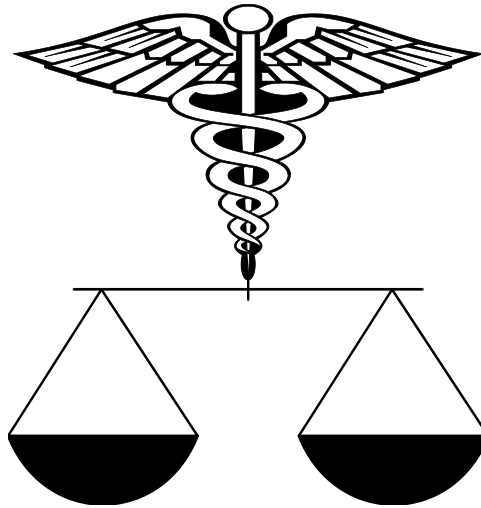
At her last prenatal visit at almost thirty-nine weeks her ob/gyn recorded her BP as 140/82. Her urine dipstick showed glucose 4+ and protein 2+. Her ob/gyn sent her to the hospital's labor and delivery unit for additional testing.

She arrived at the hospital at 11:45 a.m. that same day. She was placed on a fetal heart monitor within five minutes of arrival. A minute later a BP of 135/88 was obtained. Then her BP was monitored frequently during her stay.

Urinalysis taken fifteen minutes after arrival revealed traces of protein, glucose and ketones. About forty-five minutes after arrival a blood glucose of 162 was obtained. The admitting labor and delivery nurse noted +2 pitting edema in both legs.

The attending ob/gyn saw her at 2:33 p.m. He reviewed the monitor strips and noted minimal variability with no accelerations or late decelerations. Fetal status was Category II.

At 3:00 p.m. the afternoon labor and delivery nurse took over. At 3:07 p.m. the nurse noted from her review of the monitor strips there was minimal variability of the fetal heart rate and no accelerations. At 3:12 p.m. the nurse recorded a BP of 123/71.



The care given by the labor and delivery nurses was appropriate in all respects.

The nurses followed to the letter the hospital's established standard screening procedures for a patient with the same signs, symptoms and history as this patient.

There was no EMTALA violation.

UNITED STATES DISTRICT COURT
PENNSYLVANIA
November 24, 2014

After reviewing the monitor strips and the other tests the attending ob/gyn discharged the patient at 3:23 p.m.

The p.m. labor and delivery nurse's discharge note recorded that the fetal heart rate was normal with moderate variability, accelerations present and no decelerations.

Stillborn Fetus Delivered Preeclampsia Seen As Cause of Death

The patient returned to the hospital two days later complaining of contractions every two or three minutes.

No fetal heart tones could be heard. An ultrasound confirmed the absence of fetal cardiac activity. A stillborn fetus was delivered. Extensive lab testing pointed to the mother's preeclampsia as the cause of the fetus's death.

No EMTALA Violation

The US District Court for the Eastern District of Pennsylvania ruled the labor and delivery nurses' care was appropriate in all respects and dismissed the patient's suit for compensation from the hospital for violation of the US Emergency Medical Treatment and Active Labor Act (EMTALA).

The Court based its decision primarily on the affidavit of the registered nurse who served as Director of Maternal & Child Health at the hospital.

Continued on page two.

Inside this month's issue...

January 2015

New Subscriptions
See Page 3

Labor & Delivery/Emergency Medical Treatment And Active Labor Act
Involuntary Mental Health Commitment/Suicidal Ideation
Scope Of Nursing Practice/Wrongful Termination/Retaliation Lawsuit
Racial Discrimination/Pattern Of Racially Differential Treatment
Family And Medical Leave Act/Family Member's Serious Condition
Chemical Dependency/Disability Discrimination/License Restriction
Patient Fall/Assistance To Transfer - Sequential Compression
CMS Regulations/Same-Sex Spouse - Acetaminophen/FDA Warning

Labor & Delivery: Nurses' Care Was Appropriate, Court Dismisses EMTALA Case (Continued).

Continued from page one.

The Director outlined the hospital's standard screening measures for a patient who presented in the hospital's labor and delivery unit with the same signs, symptoms and history as this patient:

1. Assignment to an obstetrical nurse for nursing evaluation and observation;
2. Placement on a fetal monitor to continuously monitor the fetal heart rate and uterine contractions;
3. Serial blood pressures;
4. Fetal non-stress test;
5. Urinalysis;
6. Blood glucose testing;
7. Evaluation by an obstetrician.

Any further evaluation or testing beyond the steps outline above is based on the exercise of independent medical judgment by the evaluating obstetrician of all the patient's signs and symptoms, including the results of the screening measures described above.

No Complete Biophysical Profile

The a.m. labor and delivery nurse was questioned by the patient's lawyer whether at this hospital the attending ob/gyn typically orders a complete biophysical profile for a mother with suspected preeclampsia, even with normal monitor strips for more than twenty minutes, to evaluate more fully the wellbeing of the fetus.

The nurse testified the ob/gyn does typically order a complete biophysical profile at this hospital, and she did raise the issue with this patient's attending ob/gyn, but he declined to order further testing.

The Court ruled nevertheless that a full biophysical profile was not part of the hospital's standard screening procedures.

No Departure From Hospital's Standard Screening Protocols

The Court decided the case for the hospital on the basis that the labor and delivery nurses followed the hospital's standard screening procedures to the letter.

Even with the tragic outcome, there was no violation by the hospital of the EMTALA.

The Court did say the patient still conceivably could pursue a lawsuit in state court for common law medical malpractice against the attending ob/gyn for not ordering a complete biophysical profile.

The US Emergency Medical Treatment and Active Labor Act (EMTALA) requires hospitals to provide uniform screening to all those who present at the hospital with substantially similar complaints.

The evidence shows that the nurses followed the hospital's standard screening procedures with this patient.

The screening procedures that afternoon were consistent with the hospital's standard screening procedures outlined by the nurse who served as Director of Maternal & Child Health at the hospital.

An obstetrical nurse was assigned immediately. She promptly put the patient on a fetal heart monitor. Repeated blood pressures were taken, urinalysis was performed and blood glucose was tested. The nurse had the patient evaluated by an obstetrician. The obstetrician decided she had not presented with a medical emergency.

Based on all the screening measures, the physician's judgment was that no emergency medical condition existed and the patient was discharged home in apparently stable condition.

UNITED STATES DISTRICT COURT
PENNSYLVANIA
November 24, 2014

EMTALA Requirements

An interesting legal wrinkle in this case was that the patient apparently never set foot in the hospital's emergency department the first time she came in, but went straight up to the hospital's labor and delivery floor.

Nevertheless, because the patient went to the hospital, in this case at her outpatient physician's direction, for screening for a potential medical emergency, it was an emergency case and the EMTALA applied.

Federal regulations have expanded upon the original language of the EMTALA to cover patients who arrive at departments at the hospital other than the hospital's emergency department, assuming the hospital is one that has an emergency department or holds itself out as offering emergency care.

The US Congress enacted the EMTALA in the mid-1980's to prevent hospitals from refusing to treat certain emergency room patients or transferring them to other institutions before the patients' emergency conditions were stabilized, a practice known as "patient dumping."

Hospitals are required by the EMTALA to provide an appropriate medical screening examination to determine whether an emergency medical condition exists, in a non-discriminatory manner for every patient who comes to a hospital with an emergency department seeking an examination or treatment, and necessary stabilizing care before discharge or transfer.

An emergency medical condition is a medical condition manifested by acute symptoms of such severity that the absence of immediate medical attention could reasonably be expected to result in placing the health of the patient or a pregnant woman patient's unborn child in serious jeopardy.

The appropriate medical screening requirement of the EMTALA has been interpreted by the US courts to require hospitals to develop standard screening procedures for specific clusters of presenting signs and symptoms and then to apply those standard screening procedures to all alike who present for emergency care with substantially similar complaints. **Moore v. Grand View**, 2014 WL 6676535 (E.D. Pa., November 24, 2014).