EMTALA: Court Sees Nothing Wrong With Nurse's Screening In The E.R., Dismisses Case.

The patient came to the E.R. and was diagnosed with a subdural hematoma. He was admitted, surgery was performed and he was discharged six days after his initial presentation in the E.R.

The legal case arose out of a visit four days later back in the same E.R. The E.R. triage nurse thought his headache was not serious, classified him as non-emergent, had him seen briefly by the E.R. physician and then he was sent home.

The next day he went to a different hospital's E.R. and was diagnosed with a post-surgical infection which was treated at that hospital.

The patient sued the first hospital for violation of the Emergency Medical Treatment and Active Labor Act (EMTALA). The US Court of Appeals for the Fifth Circuit (Texas) dismissed the case.

Hospital's Triage Procedures Upheld

The hospital treated this patient basically the same as it would have treated any other patient. The hospital's policy was that an experienced triage nurse would assess the patient promptly and determine the order in which the patient will receive treatment, based on the apparent acuity of the individual's presenting complaints.

The hospital did not have a policy that a post-surgical patient who returned to the E.R. had be seen or evaluated by the patient's own surgeon or by a surgeon or by a specialist physician or given extensive diagnostic testing just for being a post-surgical patient. Assessment of the presenting complaints was the relevant factor.

The hospital's policies did not disallow the E.R. physician from relying to a great extent on the triage nurse's assessment in deciding the depth which would be pursued in medically screening the patient.

Thus the E.R. nurse and the E.R. physician could not be faulted for not following policies or procedures which did not in fact exist in this hospital's E.R.

The Court cautioned that there can be liability for common-law malpractice even where the EMTALA is not violated, but that was not raised by the patient as an issue in this case. **Stiles v. Tenet Hosp., 2012 WL 4762212 (5th Cir., October 8, 2012).**

The US Emergency Medical Treatment and Active Labor Act (EMTALA) says that when an individual presents at a hospital emergency room requesting treatment for a medical condition, the hospital must provide for an appropriate medical screening examination within the capability of the hospital's emergency department to determine whether an emergency medical condition exists.

If the screening reveals such a condition, the individual must be provided with stabilizing treatment or be transferred to another facility according to the strict guidelines imposed by the EMTALA and supporting Federal regulations.

Whether a medical screening examination in the E.R. is appropriate for purposes of the EMTALA is judged by the degree to which it was performed equitably in comparison to other patients with similar signs and symptoms.

If the patient's condition is erroneously determined to be non-emergent and handled on that basis, that may be malpractice, but it does not violate the EMTALA.

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
October 8, 2012

Labor & Delivery: Court Relates Infant's Injuries In Part To Nursing Negligence.

The infant was born with cerebral palsy caused by hypoxic ischemic brain injury at birth and died at age seventeen months.

There is nothing in the chart that a nursing assessment was done and documented on admission to the labor and delivery unit as to the fetal presentation.

That negligent omission was one factor that delayed the cesarean after the membranes ruptured.

SUPERIOR COURT OF PENNSYLVANIA
October 5, 2012

The jury awarded more than two million dollars to the parents from the hospital and the obstetrician.

The Superior Court of Pennsylvania upheld the verdict. The Court ruled that the family's medical expert's testimony was a valid basis for the jury to impose liability on the hospital for a negligent omission by the labor and delivery nurses.

According to the family's expert, there was nothing to be found in the chart as to a nursing assessment of the fetal presentation, which was transverse in this case.

Had discovery and documentation of the transverse presentation been a part of the admitting nursing assessment, the attending obstetrician and others would have seen the urgency of getting the cesarean done quickly once the membranes spontaneously ruptured, the family's medical expert went on to say in his testimony.

The family's medical expert was also critical of the fact that the attending obstetrician never documented his own determination of the transverse presentation in the chart prior to the cesarean. **Hatwood v. Hosp. of Univ. of Penna., __ A. 3d __, 2012 WL 4748194 (Pa. Super., October 5, 2012).**