

EMTALA: Hospital Discharged Mother With Non-Viable Fetus, Nurse Accepted As Expert.

A woman came to the hospital's E.R. at 4:30 a.m. with abdominal cramping.

She said she was sixteen weeks pregnant and that she had been advised by her ob/gyn to go to the hospital if she had any problems, given that her pregnancy was high-risk due to a history of cervical cancer, a miscarriage, a previous c-section and pregnancy-induced hypertension.

After being seen by the triage nurse and the E.R. physician she had an ultrasound which revealed a non-viable fetus with no detectable heartbeat.

When he got the ultrasound result the E.R. doctor called in an ob/gyn who did another ultrasound which confirmed the earlier findings. Because she was not having contractions and her cervix was not ready for delivery, she was discharged home against her wishes with instructions to call her ob/gyn if she had further problems. She went home and delivered her dead fetus at about 9:00 p.m. that evening.

Court Sees EMTALA Violation Nurse Accepted As Expert Witness

The United States District Court for the District of Maine ruled that the US Emergency Medical Treatment and Active Labor Act (EMTALA) is not inapplicable merely because fetal demise has been confirmed and the mother is not, therefore, in active labor.

The question is whether the patient has an emergency medical condition which places her in medically unstable condition which poses a threat to her health or safety if she is discharged without necessary stabilizing treatment.

In this case the patient had a medical condition which required stabilization before her discharge, that is, delivery of her fetus before being allowed to leave the hospital, the Court said.

To prove that point the Court accepted an experienced labor and delivery nurse's testimony as an expert witness on the possible complications this patient was still facing when she was discharged. Morin v. Eastern Maine Med. Ctr., ___ F. Supp. 2d ___, 2010 WL 3000286 (D. Me., July 28, 2010).

Because the witness is a nurse does not mean she is not an expert. The test is whether she has scientific, technical or other specialized knowledge that will assist the judge or jury to understand the evidence or to make a decision about the facts presented in the case.

After thirty-five years as an experienced labor and delivery nurse, the witness presumably knows a labor contraction when she sees it and can testify on the basis of review of the patient's medical records whether or not she was having contractions.

She is also qualified as a nursing expert to testify about the potential complications a woman in this patient's condition would have faced.

However, a nurse is not a medical expert.

A nurse's expert testimony must be limited to a nurse's view of the signs, symptoms and processes that define the patient's health needs or reaction to actual or potential health problems, particularly those she faced after discharge from the hospital.

UNITED STATES DISTRICT COURT
MAINE
July 28, 2010