

MMR Vaccine: New Vaccination Information Materials From CDC.

On March 6, 2003 the Centers for Disease Control and Prevention announced in the Federal Register that healthcare providers are now required to hand out to the patient, parent or legal guardian the most current version of the vaccine information materials dated January 15, 2003 when administering measles/mumps/rubella (MMR) vaccine.

The CDC has shortened the recommended interval between receiving the rubella-containing vaccine and becoming pregnant from three months to four weeks.

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The only change is that the CDC has reduced the recommended interval between receiving rubella vaccine and becoming pregnant from three months to four weeks.

Strictly speaking, however, the older version of the required vaccine information materials for MMR is now obsolete and should not be used.

Further information is available on the CDC's website at <http://www.cdc.gov/nip/publications/VIS>.

The current versions of the required vaccine information statements can be downloaded and printed from the CDC's website for Anthrax, DTaP, Hepatitis, Influenza, PPV23, PCV7, Polio, Smallpox, Td and Varicella as well as MMR. The information statements are in Portable Document Format (PDF) and require a few moments' patience to download.

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Workers' Comp: Court Says Fall In Parking Lot Is Compensable.

A housekeeper employed in a nursing home fell while exiting her car in the nursing home's parking lot while on her way to work.

She applied for worker's compensation. The question was whether her injury arose out of and in the course of her employment with the nursing home.

The Worker's Compensation Board failed to see a connection between her injury and her duties at the nursing home.

The Board ruled her injury did not arise out of and in the course of her employment and denied her claim.

The court will follow the positional risk rationale.

The employee in this case would not have been injured but for the fact that the conditions and obligations of her employment placed her in the nursing home's parking lot where she fell and injured her ankle.

The question is still open to what extent her medical complications were caused by this injury.

SUPREME COURT OF INDIANA
March 14, 2003

The Supreme Court of Indiana reversed the Board's decision. The court agreed she was not actually performing the duties of her job at the time, but said the duties of her job placed her in a position to be exposed to the danger of falling in the parking lot and that was enough.

However, she would still have to prove that the chain of events that led to amputation of her foot were linked to the original injury. Milledge v. Oaks, __ N.E. 2d __, 2003 WL 1153957 (Ind., March 14, 2003).

Medical Malpractice: Nurse Practitioner Not Accepted As Expert Witness.

The Court of Appeals of Minnesota, in an unpublished opinion, upheld dismissal of a medical malpractice case on the grounds that the patient did not file an expert witness's affidavit.

The patient's attorney filed the affidavit of a geriatric nurse practitioner. However, the court ruled that state law requires not just any affidavit but an affidavit from an expert who is qualified to express an opinion that the defendant in the particular case was negligent, which the court ruled the nurse practitioner was not.

The courts consistently disallow expert testimony when the expert's training, education and practical experience are not narrowly tailored to the legal standard of care that is at issue in the case.

A geriatric nurse practitioner is not an expert on a surgeon's post-operative care of a patient following a tracheal resection.

COURT OF APPEALS OF MINNESOTA
UNPUBLISHED OPINION
March 11, 2003

The court alluded to a 1998 precedent in Minnesota which ruled that a psychiatrist and a psychotherapist were not qualified to testify as experts on the legal standard of care for psychiatric nurses.

The courts require a very close match between an expert's credentials and the standard of care for the defendant on trial. Broehm v. Mayo Clinic Rochester, 2003 WL 951886 (Minn. App., March 11, 2003).