

Graduate Nurse Education: Grant Program Funding Available From CMS.

On March 22, 2012 the US Centers for Medicare & Medicaid Services announced that funding will be available for up to five selected hospitals to partner with schools of nursing and non-hospital community-based care settings to provide training for advanced practice registered nurse students.

The application deadline is May 21, 2012.

Details can be obtained by accessing CMS's announcement from the Federal Register which is on our website at <http://www.nursinglaw.com/CMS032212.pdf>

FEDERAL REGISTER March 22, 2012
Pages 16841-16842

Dystocia: Nurses' Notes Corroborate Physician's Testimony.

The US Court of Appeals for the Second Circuit concurred with the lower court's dismissal of a lawsuit against the US government for alleged medical malpractice involved in the birth of an infant at a Federally-funded medical facility.

The infant's father claimed that the obstetrician erred by failing to start the McRoberts maneuver when the shoulders became stuck and instead continued with traction while others applied suprapubic pressure to hasten the delivery. The lawsuit further contended that the obstetrician altered the medical records after the fact.

The Court, however, looked to the nurses' notes from the case which corroborated that they participated in the McRoberts maneuver as directed by the obstetrician. That was correct obstetric practice under the circumstances and he did not alter the records. Kawache v. US, 2012 WL 933982 (2nd Cir., March 21, 2012).

Abuse Reporting: Defamation Suit Dismissed.

The mother of a thirty year-old daughter who since age twelve has had a seizure disorder that has resulted in brain and nervous system damage filed a civil lawsuit for defamation against a hospital and several private-practice physicians.

While taking care of the daughter in her home the mother called an ambulance to take the daughter to the hospital because she thought the daughter might be coming down with pneumonia.

An advanced decubitus ulcer on the patient's back caused personnel from the hospital to contact adult protective services whose investigation resulted in the daughter being removed from the home.

Healthcare personnel are mandatory reporters of suspected abuse or neglect of a dependent adult by a caregiver.

The law clearly gives mandatory reporters immunity from civil lawsuits over the making of such reports.

Non-mandatory reporters are immune from suit unless it can be proven that the report was intentionally made with actual knowledge that it was false.

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The California Court of Appeal dismissed the lawsuit.

The daughter met the definition of a dependent adult. Her mother was her caretaker. By law, healthcare personnel are mandatory reporters of suspected abuse or neglect of dependent adults by their caretakers. Failure to report is a criminal offense for a mandatory reporter. The other side of the coin is that the law gives mandatory reporters immunity from civil liability for reporting as they are required. Kirby v. Prime Healthcare, 2012 WL 946309 (Cal. App., March 21, 2012).

Reverse Age Discrimination: Court Turns Down Nurse's Case.

A fifty-one year-old occupational health nurse employed by the United States Postal Service filed a lawsuit alleging she was a victim of age discrimination because all of the other nurses working in the on-site medical unit at a large postal processing facility were older.

The US District Court for the Southern District of Texas pointed to a 2004 US Supreme Court ruling that the US Age Discrimination in Employment Act does not prohibit employers from favoring older versus younger workers. Duplechin v. Potter, 2012 WL 845160 (S.D. Tex., March 12, 2012).

Correctional Nursing: Court Finds Deliberate Indifference.

The US District Court for the Eastern District of Tennessee ruled that a former county jail inmate had grounds for a civil rights lawsuit alleging that county employees were deliberately indifferent to her serious medical needs.

When the inmate was assigned to a work detail in the jail laundry she told the jail nurse she was pregnant and asked for a pregnancy test. The jail nurse did not believe her and would not give her a pregnancy test.

Three months later when she was obviously pregnant a nurse examined her but did so in a rough and abrupt manner and then sent her back to her cell.

Later that night the inmate miscarried in the commode in her cell. The guards had her remove the fetus from the toilet and put it in a bucket of ice without examining it for signs of life. The Court ruled the nurse herself was not responsible for the circumstances surrounding the miscarriage because she was not on duty at the time. Norton v. Greene Co., 2012 WL 879837 (E.D. Tenn., March 6, 2102).