

Labor & Delivery: Staff Nurse Did Advocate For The Patient.

When a nurse has reason to believe the patient's welfare is being jeopardized by the physician's action or inaction, the nurse has a legal obligation to advocate for the patient.

Hospital policy established a chain of command to be observed in situations compelling nursing advocacy.

The staff nurse was first to go to the charge nurse.

The charge nurse, if unable to resolve the situation with the physician, was to go to the nursing supervisor.

If the nursing supervisor could not resolve the situation satisfactorily with the treating or attending physicians, the nursing supervisor had to go to the medical director of the facility.

The courts, state and Federal regulators and accrediting organizations recognize two separate and independent legal obligations for nursing advocacy.

Facilities have the obligation to establish a chain of command for nursing advocacy and train their nurses about it in-service.

Nurses have the obligation to activate the chain of command when activation proves necessary.

SUPERIOR COURT
MONMOUTH COUNTY, NEW JERSEY
March 19, 2008

The infant was delivered by cesarean section with profound neurological deficits which, based on acidotic blood gases obtained at the time of birth, were blamed on oxygen deprivation during labor.

The medical issues became very complicated when the mother's ob/gyn and a consulting surgeon related her complaints of abdominal pain during labor to acute appendicitis which they deduced required an emergency appendectomy. The appendectomy went ahead as an open procedure starting with a McBurney incision.

When the mother lost over 3,500 cc of blood the physicians decided to change course and do a cesarean. Then they discovered intraoperatively that the appendix was fine and there had been no need to remove it.

Nursing Advocacy

As the physicians were preparing to go ahead with the surgery a perioperative nurse repeatedly warned the physicians that the monitor tracings pointed to fetal distress. They did nothing so the nurse went to the charge nurse.

The charge nurse also did nothing so the staff nurse went over the charge nurse's head to the house supervisor. The supervisor also did nothing to alter the course of events.

Nurses, Hospital Dismissed From Case

The judge in the Superior Court, Monmouth County, New Jersey dismissed the staff nurse, charge nurse and the hospital from the case before the jury returned a verdict of \$18,842,278 against the two physicians.

The staff nurse fulfilled her legal obligations. The charge nurse and the nursing supervisor, however, did not, notwithstanding clear directives established by the hospital outlining what they were expected to do in this situation.

The judge's reasoning was that no proof was presented that the medical director of the facility, if informed by the house nursing supervisor what was going on, in fact would have stepped in and corrected the situation. Kowalski v. Palav, 2008 WL 4925670 (Sup. Ct. Monmouth Co., New Jersey, March 19, 2008).