

Bedsores: Nurses OK On Review Panel If Nursing Negligence Is The Issue.

A patient intended to sue a hospital claiming that the hospital's nurses were negligent for allowing her to develop bedsores.

As in many states, before filing suit the patient by law had to demand a medical review panel be convened to examine the evidence and render an opinion. The hospital agreed in principle, but insisted on striking all the nurses who were proposed as panel members in favor of a panel consisting of three plastic surgeons.

Before a malpractice suit can be filed, a medical review panel must examine the evidence and render an opinion whether the defendants were negligent.

Panel members can testify as expert witnesses if the case goes to trial and the panel's report, while not conclusive, is admissible.

COURT OF APPEALS OF INDIANA, 2001.

The Court of Appeals of Indiana said it is proper to file suit without first convening a medical review panel if it is necessary for a court to resolve a good-faith dispute over whom to have on the panel.

The court then ruled, at least as the legal statute is worded in Indiana, there is no basis to say registered nurses are not fully qualified to sit on medical review panels, assuming as in this case that the issue is nursing malpractice. ***Harlett v. St. Vincent Hospitals and Health Services***, 748 N.E. 2d 921 (Ind. App., 2001).

Terbutaline Infusion Pump: Court Discusses Liability Issues In "Off-Label" Medication Use.

While on a terbutaline infusion pump to slow the progress of her labor the patient had a heart attack. The baby was born healthy. Then the mother had surgery to repair heart damage sustained in the heart attack. She recovered fully from the surgery.

The mother sued the company that supplied the infusion pump, her ob/gyn physician and the manufacturer of the drug terbutaline. The jury cleared all the defendants of blame. The Court of Appeals of Tennessee, however, threw out the jury's verdict and ordered a new trial.

Nursing Assessment Was Missing

The Court of Appeals agreed with the patient it was a troubling fact that the nursing assessment had turned up missing by the time the litigation was underway.

The company that supplied the infusion pump required the nurse who brought the equipment to the hospital to conduct a thorough assessment before starting the pump. The nurse was also expected to document a conference with the patient's physician to strongly suggest an EKG before the pump was started.

As a general rule in medical malpractice litigation, when critical evidence that is exclusively under the control of one side turns up missing, the other side is entitled to ask the jury to infer that the evidence would have been damaging.

Off-Label Use of Medication

Off-label means the medication is used for a purpose not directly indicated by the Physician's Desk Reference. According to the court, it is not negligent for physicians to order or for nurses to administer medications for off-label uses, so long as the customary precautions are followed as with any other medication.

The court said a nurse must assess the patient and must know the dose, route, timing, etc., are safe and appropriate based on reliable information available for the medication's off-label use from sources other than the PDR. ***Richardson v. Miller***, 44 S.W. 3d 1 (Tenn. App., 2000).

The nurse who brought the terbutaline infusion pump to the hospital worked for the company that supplied the pump.

Company policy required the nurse to review the patient's history, conduct a nursing assessment and complete the company's nursing assessment form before starting the pump and to file the assessment in the company's records.

The purpose of the nursing assessment was to be sure the patient's medical status fit the company's guidelines for safe and effective use of terbutaline infusion therapy and that the dosage regimen ordered by the patient's physician was appropriate.

In this case this patient's nursing assessment form turned up missing. The company produced another assessment form, backdated and signed by a different nurse.

The patient was entitled to have it brought to the jury's attention and to have the jury members instructed they could draw a negative inference from the fact the nursing assessment was missing.

COURT OF APPEALS OF TENNESSEE, 2000.