

## Nursing Documentation: Court Faults Nurse For Failing To Note Time Of Catheter Removal.

**I**mmediately prior to her hysterectomy, the patient was given an indwelling urinary catheter to facilitate post-operative drainage. On the morning after surgery, the catheter was removed by one of the hospital's nurses.

The nurse noted in the patient's chart that she had removed the catheter, but did not record the time of day. Later that day, the patient was unable to void her urine. According to the court record, because the nurse who removed the catheter did not record the time of day, there was a delay in reinserting another catheter to enable the patient to void. The Court of Appeals of Georgia faulted the nurse who removed the catheter. The court ruled it was negligent nursing practice for the nurse not to have made note of the time of day when the catheter was removed.

The case also involved complex allegations of medical malpractice over the manner in which the surgeon had done the hysterectomy. These allegations included a claim that the patient developed urinary stress incontinence because of how the surgeon had placed sutures through the walls of the bladder and vagina. For technical legal reasons, the Court of Appeals was not satisfied the trial judge had given proper instructions to guide the jury's deliberations on the medical malpractice issues, so the jury's verdict exonerating the surgeon and the hospital was thrown out in favor of a new trial.

The Court of Appeals was convinced the patient's stress incontinence was caused by the surgeon's negligence, not an error or omission in the post-op nurse's charting. However, blame could be laid upon the nurse for the distress the patient experienced due to the delay in reinserting her catheter so she could void. **Hartman vs. Shallowford Community Hospital**, 466 S.E. 2d 33 (Ga. App., 1995).

## Worker's Compensation: Nurse's Suit Alleging Retaliatory Discharge Dismissed By Court.

**State law prohibits an employer from discharging an employee solely because the employee has filed a worker's compensation claim. If an employee is discharged for filing a worker's compensation claim, the employee has the right to sue the employer for retaliatory discharge.**

**On the other hand, as in this case, an employer can discharge an employee without facing liability for retaliatory discharge, if the employer has a legitimate reason for discharging the employee, apart from the fact the employee has filed for worker's compensation.**

**The nurse admitted she took a bereavement day to go to her aunt's funeral, without prior authorization as required by the hospital. She just failed to show up for her nursing shift on the day in question.**

**She also admitted she had stayed off work from her back injury longer than the time her physician allowed.**

**Either of these was a valid reason for the hospital to discharge this nurse.**

UNITED STATES DISTRICT COURT,  
MARYLAND, 1995.

**A**ccording to the personnel policy manual at the hospital, employees were entitled to bereavement leave for a death in the family. However, the manual also stated that the manual was intended by the hospital only to inform employees of hospital policies, and was not to be taken as a definitive statement of employees' rights.

The U.S. District Court in Maryland ruled, under the circumstances, that it was not a nurse's absolute right to take bereavement leave to travel to her aunt's funeral in another city. Instead, she had the right to ask her supervisors for time off. They were to make an effort to accommodate her request, but had no absolute obligation to do so. When the nurse failed to report for work as scheduled, despite the fact her scheduled shift assignment conflicted with attending the funeral, she was guilty of unauthorized absence, grounds for dismissal, according to the court.

Although the nurse was given time off by her treating physician to recover from an on-the-job back injury she stayed out longer than the time allotted. Overuse of what began as legitimate medical leave, the court ruled, amounts to unauthorized absence which would justify her termination.

After being fired, the nurse sued her former employer for retaliatory discharge because she filed a worker's compensation claim. Although there are in general terms clear grounds for a lawsuit if an employer discriminates in any way against an employee solely because the employee has filed or threatened to file a worker's comp claim, if there are other valid grounds for taking disciplinary action against the employee, the employer can take disciplinary action without being subject to a lawsuit, according to the court. **Ayers vs. ARA Health Services, Inc.**, 918 F. Supp. 143 (D. Md., 1995).