

Chart Records: Power Of Attorney Allows Family Access.

By law a patient's medical records prepared and kept by a health care provider are the property and business records of the health care provider.

However, patients are entitled upon request to obtain copies of any and all medical records a health care provider has that pertain to the patient.

The patient must furnish the health care provider a signed authorization.

The patient must pay photocopying charges up front, before receiving his or her medical records.

Patients are also entitled to copies of x-rays, scans, films, etc., upon payment of reasonable reproduction costs.

Holder of Power Of Attorney Same Rights as Patient

According to the Court of Appeal of Louisiana, a family member or other person holding a power of attorney on the patient's behalf has the same right to copies of medical records, in this case to give them to the attorney investigating a possible lawsuit over a fall by the patient at a nursing home. In re Gould, __ So. 2d __, 2003 WL 21976113 (La. App., August 20, 2003).

Temporary Restrictions: Nurse Not Regarded As Disabled.

A hospital staff nurse had been injured on the job several times. As a temporary accommodation her employer assigned her to an office computer position.

While working in the office the hospital unit where the nurse had worked was closed. All of the nurses actually working on the unit at the time were reassigned within the hospital. Then the nurse's office computer position was eliminated and she was not offered other employment.

At the time when her computer position was eliminated the nurse's temporary medical restrictions had been lifted by her physician.

Temporary Accommodation Nurse Not Regarded As Disabled

An employee who is not actually disabled, but who the employer falsely believes is disabled, who suffers discrimination based on the employer's false belief, is entitled to sue for disability discrimination just like a truly disabled individual, the US Circuit Court of Appeals for the Eighth Circuit observed.

However, according to the court, an employer does not necessarily hold a belief that an employee is disabled just because the employer makes an accommodation to an employee's temporary work restrictions and the employer does not risk a disability discrimination lawsuit just for taking such action. Simonson v. Trinity Regional Health System, 336 F. 3d 706 (8th Cir., July 16, 2003).

PCA: Patient Dies, Nursing Negligence Not Proven.

A patient needed wrist fusion surgery. His physician knew that the patient was obese and had a history of heart problems but believed he could safely have the surgery as an outpatient.

After the procedure, however, the patient had to be admitted to a medical-surgical unit of the hospital for management of his intense pain. He was placed on a morphine patient-controlled analgesia (PCA) device.

At 4:00 a.m. the staff nurse checked on him and found him grayish in color and unresponsive. She summoned the physician on duty. They were not able to revive him with repeated doses of Narcan and he died. The on-duty physician believed he died from a heart attack and congestive heart failure.

Proof of Causation Nursing Expert Not Accepted

An advanced practice registered nurse testified he should have been checked while sleeping more frequently than q 4 hours, given he was obese, had a cardiac history and was getting morphine, a narcotic known to depress respiratory and cardiac function.

However, the Appellate Court of Connecticut ruled the nurse practitioner did not have the education or training to give an opinion that less frequent monitoring of the patient, even if it was nursing negligence, caused or contributed to his death, and dismissed the case. Sherman v. Bristol Hospital, 79 Conn. App. 78, 826 A. 2d 1260 (Conn. App., August 26, 2003).

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