

Correctional Nursing: Court Sees No Deliberate Indifference.

A state prison inmate had to have a cancerous mole removed from his shoulder.

The inmate's lawsuit would later claim that the mole that he complained about was on his left shoulder but that the physicians negligently biopsied and removed a mole from his right shoulder, then altered the medical records to cover up their mistake.

As to the prison nurses, the inmate claimed that one nurse negligently failed to remove the sutures from the wound and that other nurses afterward refused to hear about his symptoms from a tiny piece of suture that still remained in the wound.

A small fragment of suture being left in a surgical wound is not deliberate indifference.

UNITED STATES DISTRICT COURT
CALIFORNIA
July 11, 2013

The US District Court for the Eastern District of California dismissed the inmate's lawsuit.

The Court accepted the affidavit of the prison nurse who removed the sutures. She admitted that a small piece of suture was found protruding from the skin almost two months later. She was not sure if it was a material that normally is supposed to dissolve or nylon that does not dissolve.

A small piece of suture inadvertently left in a wound is not deliberate indifference to a serious medical need, the Court said.

During the two month period before the small piece of suture was found protruding from the skin, other prison nurses listened to the inmate, repeatedly examined the site and found no evidence of infection and were not able to do anything about his complaints of itching and pain. That showed there was no deliberate indifference by the prison nursing staff. Bartholomew v. Traquina, 2013 WL 3537393 (E.D. Cal., July 11, 2013).

Correctional Nursing: Court Sees Deliberate Indifference.

A jail inmate was taken to an outside medical facility for knee surgery and then returned to the jail.

The jail's head nurse phoned the orthopedic surgeon and obtained authorization over the phone to remove the inmate's surgical staples. She did so without asking that the physician come in to examine the inmate or arranging for the inmate to be taken out for a physician's exam.

The nurse was given permission and removed the staples. Shortly after sending the inmate to walk back to his cell his surgical wound burst open.

The inmate was given no treatment for three days, until his lawyer pressured jail officials into sending him to the hospital.

In the hospital a staph infection was detected in the wound. Irrigation, debridement and re-suturing were done and he was kept in the hospital until his staples were removed.

The Eighth Amendment protects incarcerated individuals from deliberate indifference to serious medical needs, a form of cruel and unusual punishment.

UNITED STATES DISTRICT COURT
VIRGINIA
July 11, 2013

The US District Court for the Western District of Virginia ruled the inmate had grounds to sue the jail nurse and the physician for deliberate indifference to his serious medical needs, a violation of his right under the Eighth Amendment to the US Constitution to be free from cruel and unusual punishment.

As to the jail nurse, the Court focused on the fact that nothing was done for three days about dehiscence of a surgical wound, an obviously serious medical condition, until the inmate's lawyer intervened and finally was able to get something done. Mitchell v. Abrokwah, 2013 WL 3517785 (W.D. Va., July 11, 2013).

Impaired Nurse: Court Sees No Violation Of Nurse's Rights.

An RN tested positive for morphine for which she did not have a prescription and was reported to the state board.

The board's investigation revealed a history of other positive narcotics tests, two employment terminations and convictions for driving while intoxicated and child maltreatment.

The Health Professionals Services Program allowed her to keep her license if she signed a consent decree agreeing to meet the Program's expectations which included abstaining from mood-altering chemicals, obtaining substance abuse and mental health treatment, informing employers of the reason for her conditional license and monitoring on the job.

After repeated lapses in meeting the terms of the consent decree her conditional nursing license was suspended indefinitely.

A state administrative agency cannot suspend or revoke a professional license without an evidentiary hearing to protect the individual's right to Due Process of Law.

However, in this case the nurse knowingly and voluntarily entered into a consent decree. The only issue for the hearing is whether or not she met the terms of that consent decree.

COURT OF APPEALS OF MINNESOTA
July 8, 2013

The Court of Appeals of Minnesota ruled the nurse was not entitled to a full-blown judicial hearing to evaluate her ability to practice competently and safely as a nurse. The only issue was whether she had met the terms of the consent decree which she knowingly and voluntarily signed. Matter of Judnick, 2013 WL 3368435 (Minn. App., July 8, 2013).