

E.R.: Patient's Death Tied, In Part, To Nursing Negligence.

The thirty-nine year-old patient was brought to the E.R. by her family with head and neck pain, body aches, nausea, vomiting, chills and a rapid heart rate.

The triage nurse saw her almost immediately. The triage nurse obtained a medical history which included thyroid and Hodgkin's diseases and migraine headaches. Her surgical history included an appendectomy, lumpectomy and exploratory spleen removal.

Vital signs obtained by the triage nurse included a BP of 111/68, heart rate 163, temp 102° and reported pain 9/10.

Another nurse took over from the triage nurse as the patient's E.R. nurse. The E.R. physician saw her ten minutes after triage had been completed.

The E.R. physician ordered IV fluids, ibuprofen and medications for nausea and pain. He did a lumbar puncture which returned clear fluid which ruled out bacterial as opposed to viral meningitis.

The physician noted several differential diagnoses in the chart and began the process of discharging her. Her heart rate was still 155. The family, who were just passing through town on a driving vacation, went to a local hotel.

The next morning they called 911. The patient was brought back at to the E.R. She was intubated immediately, coded within minutes and died after another hour.

Jury Finds Medical Malpractice And Nursing Negligence

The Court of Appeal of Louisiana upheld the jury's verdict finding the E.R. physician 60% at fault and the hospital's nurses 40% at fault.

The E.R. nurses should have brought to the E.R. physician's attention the important fact that the patient had had her spleen removed, according to the family's medical expert. The widespread signs and symptoms of infection should have been seen as a potentially life threatening situation for her that should have been handled as such by the E.R. physician.

The nurses also should have advocated for their patient against the physician's plan to discharge the patient in medically unstable condition, the expert believed. **Bolton v. Willis-Knighton**, __ So. 3d __, 2013 WL 174853 (La. App., April 24, 2013).

A nurse has the legal responsibility to bring important facts expressly to the physician's attention of which the nurse is aware from the medical history or nursing assessment.

The E.R. triage nurse obtained a full medical history from the patient, which included past surgical removal of her spleen.

The E.R. triage nurse entered the patient's medical history into the hospital's computer charting system.

However, the E.R. nurses never specifically mentioned to the E.R. physician that this patient with signs and symptoms of a serious systemic infection did not have a spleen, a fact which could make an infectious process a potentially life-threatening situation.

The E.R. physician admitted he was negligent for not reading the patient's medical history in her computer chart. The jury found him 60% at fault and the hospital's nurses 40% at fault.

The E.R. nurses further failed to carry out their responsibility to advocate for their patient against the physician's plan to discharge the patient with vital signs that were abnormal and unstable and indicative of continuing problems.

COURT OF APPEAL OF LOUISIANA
April 24, 2013

Discrimination: Sleep Apnea Does Not Excuse Error In Judgment.

The nurse was transferred to a sedentary position taking patient phone calls and scheduling appointments after an incident where he gave a patient an insulin shot instead of a TB test.

The transfer was a compromise suggested by the nurse's union rep as an accommodation to the disability the nurse was prepared to claim he suffered from, a combination of chronic pain, a sleep disorder and sleep apnea which may have been the root cause of his mental lapse.

Then as scheduling nurse there was a second incident where he himself ruled out over the phone that a patient had not had a stroke and scheduled her for the urgent care clinic late that p.m. instead of contacting her primary care physician to see if he should send her in that same morning even though the physician's schedule was full.

The nurse was terminated and then sued for disability discrimination.

Even if the combination of chronic pain, sleep disorder and sleep apnea fits the legal definition of a disability, two errors in judgment that could have compromised patient safety are a legitimate, non-discriminatory reason to terminate a nurse's employment.

UNITED STATES DISTRICT COURT
MARYLAND
March 20, 2013

The US District Court for the District of Maryland dismissed the case.

Even if the nurse's health conditions added up to a true legal disability, if those medical issues caused him to repeat errors in judgment which could have compromised patient safety, he was not a qualified individual with a disability and cannot not sue for disability discrimination. **Bennett v. Kaiser Permanente**, __ F. Supp. 2d __, 2013 WL 1149920 (D. Md., March 20, 2013).