Emergency Care: Hospital Had No Obstetric Department, Judge Finds No Negligence Committed By E.R. Physician Or Nurses.

An infant was born at twenty-five weeks in the emergency department of a hospital which does not have a labor and delivery unit or a neonatal intensive care unit and does not offer obstetrical services. The child now has cerebral palsy and is badly developmentally delayed.

The Court of Appeal of California upheld the lower court's finding of no neligence by the E.R. physician and nurses.

Nursing Assessments

After initial triage, a nurse carried out orders for a Foley catheter. Although she did not chart that there was no bleeding she testified she would have charted and reported it if there was any.

Another nurse took the patient for an ultrasound, waited for her, returned her to the emergency department and again took her vital signs. The ultrasound, two hours before the spontaneous birth, was normal for the fetus's gestational age.

A nurse saw no bleeding when the nurse helped the patient use a bed pad to try to defecate. When the patient said she wanted to start pushing the nurse told her not to push before talking to the physician. The nurse reported this to the physician and then charted what happened.

When the water broke a nurse came into the examination area promptly at the family's request. Right then the baby came out. It was in severe respiratory distress. The physician had to bag the newborn by mouth after trying and failing to intubate with the smallest pediatric tube they had. The baby was transferred to a neonatal ICU at another hospital later that night.

The court ruled the hospital fulfilled its emergency medical screening and stabilization requirements under the US Emergency Medical Treatment and Active Labor Act. Based only on the data known before the birth the mother could not have been transfered legally to another facility.

Valdepena v. Catholic Healthcare, 2008 WL 2469374 (Cal. App., June 20, 2008).

The emergency room nurses did all that was expected of them in terms of assessing, evaluating and monitoring the patient's changing condition.

Almost immediately upon arrival in the E.R. lobby the triage nurse wheeled the pregnant patient into an examination area and obtained her history, that is, that she was eighteen years old, pregnant and had come to the hospital because of vaginal bleeding along with sharp lower abdominal pain lasting thirty minutes.

The nurse took vital signs. Then the nurse used a hand-held Doppler, all that was available, to obtain a fetal heart rate of 155. If there were any labor contractions the highly experienced E.R. nurse would have felt them.

The patient was classified as urgent but not critical. The nurse reported right away to the E.R. physician and checked on the patient from time to time until the physician saw her seventy minutes later. She did not need any more pads, so her bleeding was not significant.

CALIFORNIA COURT OF APPEAL
June 20, 2008