Emergency Medical Treatment And Active Labor Act (EMTALA): Hospital's Nurses Provided Appropriate Medical Screening, But Did Not Stabilize The Patient Before Sending Her Home.

The patient phoned the hospital's emergency room and spoke with an emergency room nurse, then came in in person. She was pregnant and had abdominal pain radiating around to her back.

The nurses took various measures in the emergency room and sent her home. In fact, the patient was having placental abruption.

The patient delivered a stillborn infant. She sued the hospital for violation of the US Emergency Medical Treatment and Active Labor Act (EMTALA) and for medical malpractice under state common law principles.

Appropriate Medical Screening Examination

The US District Court for the Middle District of Florida ruled the hospital's nurses provided the patient with an appropriate medical screening examination as required by the EMTALA. Although the nurses failed to detect the true nature of her condition, they did give the patient the same basic screening measures any other patient would receive for the same presenting signs and symptoms.

Necessary Stabilizing Treatment

The court seriously questioned whether the nurses provided necessary stabilizing treatment even if their assessment of a urinary tract infection was correct.

The court did not rule the nurses violated the EMTALA, but bound the case over for a civil jury trial on the issue.

EMTALA Liability / Nurses

The EMTALA gives a patient or the family of a deceased patient the right to file a civil lawsuit. Most cases are filed in Federal court.

Hospitals and physicians are the only permissible defendants in an EMTALA lawsuit. The EMTALA does not allow nurses to be sued, although hospitals can be sued under the EMTALA for the errors and omissions of emergency room nurses.

Professional Malpractice

The EMTALA requires a hospital to provide an appropriate medical screening examination to any person needing emergency medical treatment, assuming the hospital participates in Medicare and has an emergency department.

The courts interpret the word "appropriate" to mean each person who comes to an emergency room must get the same screening examination as any other person with the same presenting signs and symptoms, no more, no less.

Necessary stabilizing treatment is also mandated by EMTALA in every case where the medical screening examination reveals to the hospital's first-response personnel that the person has an emergency medical condition.

Necessary stabilizing treatment is mandatory before the patient can be transferred to another facility or sent home, unless the hospital lacks the full ability to treat the condition and transfer would in fact benefit the patient.

UNITED STATES DISTRICT COURT, FLORIDA , 2000.

Professional malpractice is not relevant in an EMTALA lawsuit. Even if the screening, assessment and treatment were negligent by standards of professional malpractice, there is no EMTALA violation as long as the patient receives the same screening as any other patient with the same signs and symptoms and is given standard treatment based on the results of the screening to the point where the patient appears stabilized.

However, as in this case, the patient's lawyers will often add allegations of common-law professional malpractice in the lawsuit to supplement the allegations of EMTALA violation.

The Facts of This Case

The patient phoned the hospital at 10:00 p.m. and spoke with a registered nurse in the emergency room. She said she was pregnant and was having pain in her lower abdomen and back and felt like she was in labor.

The nurse told her she had a urinary tract infection and should come in when her contractions were regular to receive medication for the infection.

The patient came in to the emergency room at 2:40 a.m. and saw the same nurse to whom she had spoken on the phone. The patient complained of pain in her lower abdomen that radiated around to her back and said she was unable to urinate.

There was disputed testimony at this point. The patient said she could not urinate, but one nurse said they got a urine sample. The other emergency room nurse said the patient said she was urinating frequently. The patient also said when she tried to give a urine sample she noticed she was bleeding and told the nurses, but the nursed denied that.

The nurses did a vaginal exam, took her vital signs, got a urine sample, they said, and tried to attach a fetal monitor.

(Continued on next page.)

At 3:30 a.m. the nurses phoned the ob/gyn physician who had been providing the patient's prenatal care. The nurses

EMTALA: Nurses Did Not Stabilize Patient (Cont.)

related the patient's complaints, said nothing about a urinalysis and said they were giving water and cranberry juice for a urinary tract infection.

They told the physician they could not get fetal heart rates with the monitor because the patient was agitated and frequently changed positions, but said they had obtained a fetal heart rate using a hand -held Doppler.

The nurses said she was dilated one and one-half centimeters.

The patient was not seen by a doctor before she left at 4:00 a.m. The testimony was in dispute whether the nurses called the ob/gyn physician again before the patient left. It was also disputed whether the patient was sent home or left on her own. The patient testified she decided to go home, but only because it seemed the nurses were not going to do anything for her if she stayed at the hospital.

At home the patient's pain got worse, she started bleeding heavily, her abdomen began tightening and she started vomiting.

She came back to the emergency room at 8:30 a.m. Physical examination by one of the same two night nurses revealed her abdomen had become hardened. They phoned the ob/gyn physician and he ordered an ultrasound. The ultrasound revealed the fetus had died.

The Court's Ruling

The court said there were symptoms the nurses should have seen as signs of possible placental abruption which required stabilizing the patient (seeing to it she had a cesarean) before sending her home or letting her leave. Even if it was only a urinary tract infection, the court said the patient was not stabilized and should not have been sent home.

The court also saw grounds for common law malpractice claims under state law against the hospital as the nurses' employer and against the ob/gyn physician. **Williamson v. Roth, 120 F. Supp. 2d 1327 (M.D. Fla., 2000).**

Snake Phobia: Not A Disability For Disability Discrimination, Court Rules.

A switchboard operator at a state hospital refused to continue working and took an extended leave after a snake was seen in her work area.

When she came back to work she was offered a lower-paying nurse's aide position, which she refused. She then sued the hospital for disability discrimination.

A disability is a physical or mental impairment that substantially limits one or more major life activities.

Major life activities include caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing and working.

Inability to work in a broad class of jobs is a disability. Inability to work at one particular job is not a disability and will not justify a disability discrimination suit.

UNITED STATES COURT OF APPEALS, EIGHTH CIRCUIT, 2000.

The first issue to decide in any disability discrimination case is whether or not the employee's condition is a disability as disability is defined by law. There must be a disability before reasonable accommodation becomes an issue.

The US Circuit Court of Appeals for the Eighth Circuit ruled that this employee's phobia was not a disability. The court accepted the switchboard operator's genuine feeling that she could no longer perform that job, but inability to perform just one particular job for whatever reason is not a legal disability. **Anderson v. North Dakota State Hospital, 232 F. 3d 634 (8th Cir., 2000).**

Agency Nurses: Client Controls The Workplace, Client Is Nurse's Employer For Discrimination Claims.

Two jail nurses wanted to sue the state department of corrections for sexual harassment by the prison superintendent.

The prison system responded by asking the US District Court for the Western District of Missouri to dismiss the lawsuit on a technicality, that is, they said the nurses were independent contractors as far as the prison system was concerned, not employees of the prison system.

Title VII of the US Civil Rights Act prohibits discrimination by employers. Sexual harassment is considered a form of employment discrimination.

Because the prison superintendent controlled their work environment, the prison system is considered the nurses' employer.

The superintendent also had the authority to suspend the prison's contract with the nurses' agency, giving him a large measure of control over their jobs.

UNITED STATES DISTRICT COURT, MISSOURI, 2000.

The court upheld the nurses' suit. For sexual harassment law, agency nurses are considered employees of the client institution, even if technically they are agency employees or independent contractors for income tax or worker's compensation. **Hunt v. State of Missouri Dept. of Corrections, 119 F. Supp. 2d 996 (W.D. Mo., 2000).**