

# LEGAL EAGLE EYE NEWSLETTER

August 1997

*For the Nursing Profession*

Volume 5 Number 8

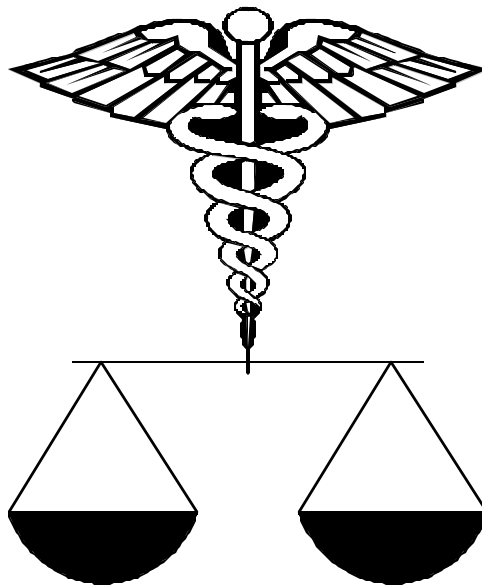
## Euthanasia: Court Says Hospital Can Fire Nurse For Hastening Patient's Demise.

**T**he seventy-six-year-old patient had end-stage chronic obstructive pulmonary disease and pneumonia. She was dependent on mechanical ventilation when she was admitted to the critical care unit with a diagnosis of acute respiratory failure.

After several weeks in critical care, her physician, after extensive discussions with the family, discontinued all other life-support measures and ordered a process of terminal weaning from the respirator. Soon after the weaning process began, the physician ordered a continuous Fentanyl drip, with IV push Fentanyl every thirty minutes as needed for restlessness or agitation.

In carefully laying out the facts behind its decision, the New York Supreme Court, Appellate Division, made note that Fentanyl is a powerful narcotic which acts both as a sedative and pain reliever. The court noted that this drug can also severely depress respiration and hasten the demise of a patient already near death.

The critical care nurse manager, according to the patient's nursing notes, turned up the continuous Fentanyl drip only fifteen minutes after the last IV injection of Fentanyl, and the patient expired five minutes later.



***The critical care unit nurse manager admitted she turned up the Fentanyl drip only fifteen minutes after the last IV dose, without noting in the chart that the patient was agitated or restless.***

***The nurse said the family's distress over the plan to wean the patient from the respirator led her to take this action.***

NEW YORK SUPREME COURT,  
APPELLATE DIVISION, 1997.

The hospital fired the critical care nurse manager for intentionally euthanizing this patient. The court upheld the hospital. It ruled the hospital had sufficient legal grounds for this action.

A nursing-review panel found certain specific departures from accepted nursing practices for giving IV medications. The panel believed, however, that these departures from good practice were not substantial enough to warrant a nurse's termination.

The court agreed that a nurse should not turn up an IV drip as an alternative to using a syringe to give a measured dose of the medication, as turning up a drip does not lend itself to a precise calibration of the amount of the drug the patient is getting. The court also agreed it is not good nursing practice to give a medication sooner than the shortest interval allowed under the physician's orders, or to give a p.r.n. medication without nursing documentation of the signs or symptoms for which the medication was ordered.

However, the nurse admitted to her co-workers she deliberately hastened this patient's demise because of the family's emotional distress over the terminal weaning process. The nursing-review panel had not considered the fact

*(Continued on page 2)*

**Inside this month's issue ...**

**August 1997**

**New Subscriptions: Page 4**

**Euthanasia Of Terminally Ill Patient/Nurse Fired  
Decubitus Ulcers/Nursing Assessment/Skin Care Plan/Nursing Care  
Drug Test Urine Samples Mixed Up/Negligence Lawsuit  
Nursing Care Surveys Not Evidence Of Negligent Nursing Care  
Health Insurance Benefits After Employee's Termination  
Adverse Drug Reactions/Nursing Care - Whistleblowers/Retaliation  
Emergency Medical Treatment And Active Labor Act  
Nurse Manager's Employment Status - Physical Restraints.**

the nurse had admitted this. The court felt this factor dispensed with the need for any further debate over whether general standards of good IV practice had been breached. The court ruled that intentionally hastening a patient's death is wrongful professional conduct for a nurse.

The court had to consider the factual scenario under principles of employment law as well as in light of the underlying question of the propriety of a nurse committing an act of euthanasia upon a terminally-ill patient.

As a matter of employment law, the court noted that the hospital had a policy that employees not covered by a collective bargaining agreement could not be fired without just cause. This nurse was a manager and was not under the union contract.

For a nurse in the union, discipline policies and procedures had to be strictly followed as set out in the contract.

Under hospital policies, a non-bargaining-unit nurse could not be fired for a minor offense. The policy was to encourage employees to work out minor problems in strict confidence with their superiors without fear of reprisal. A serious violation of expected standards of professional conduct, however, would be just cause for a nurse to be fired. A nurse could be fired for a first offense, without warning, if the offense was serious enough.

After a drawn-out discussion of these issues, the court decided that this nurse had been promoted to management before the policy of firing only for just cause had taken effect. Thus she was, strictly speaking, still working under the traditional common-law rule of employment "at will." An "at will" employee can quit, and can be terminated, at any time, for any reason, with or without sufficient cause, or for no cause. Thus, according to the court, the hospital was on solid ground and there was no legal basis for a challenge to its decision to fire this nurse. **La Duke vs. Hepburn Medical Center, 657 N.Y.S. 2d 810 (N.Y. App., 1997).**