

## Intramuscular Injections: Nurse Must Use Only An Appropriate Site, Court Says, Or Face A Lawsuit.

**W**hen administering an intramuscular injection, it is a nurse's legal responsibility to ascertain that the site of the injection is located within an acceptable area of the body. Failing to do so falls below the accepted legal standard of care for nursing practice, according to the Court of Appeals of Utah.

***When giving an intramuscular injection to a patient, it falls below the accepted standard of care for nursing practice to fail to locate and use an appropriate site.***

***The risk in going outside an appropriate site on the buttocks is that the patient will sustain injury to the sciatic nerve, which can result in a permanent disability.***

COURT OF APPEALS OF UTAH, 1997.

In this case, however, the hospital did not pay damages even though the nurse's conduct was a departure from

The patient's attorneys got an affidavit from a registered nurse stating it was not within accepted standards of nursing practice to give an IM injection outside the proper area, and to the effect that it caused this patient a permanent sciatic nerve injury. The court accepted the nurse's qualifications as an expert witness on the legal standard of care for nursing, but ruled the nurse was not qualified to state an opinion making a cause-and-effect connection between a departure from accepted professional standards and the injury this patient was claiming, meaning the case had to be dismissed for lack of proof. Kent vs. Pioneer Valley Hospital, 930 P. 2d 904 (Utah App., 1997).

## Medical Equipment: Evidence Of Adverse Patient-Care Event Must Be Preserved, Court Rules.

***After an adverse patient-care event related to a potentially faulty piece of medical equipment, a healthcare provider cannot discard, alter or destroy the equipment in question, or allow another party such as the manufacturer to do so.***

***A healthcare provider cannot intentionally or negligently impair the right of the patient or the parents or legal guardian of the patient to file a civil products liability lawsuit for damages.***

***If a healthcare provider's failure to preserve the physical evidence impairs the patient's ability to pursue monetary damages in a civil lawsuit, the healthcare provider itself can be sued directly as a defendant and ruled liable to pay the damages.***

***A prospective civil action is a valuable expectancy which the courts must protect from interference. A legal cause of action for spoliation of the evidence is the legal mechanism the courts have developed for this, whether or not the interference is intentional.***

DISTRICT COURT OF APPEAL OF FLORIDA,  
1997.

**A** pediatric patient went into cardiac arrest while under general anesthesia for surgical correction of a drooping eyelid. He was placed on a respirator in intensive care, but never revived, and died within ten days. The hospital's internal risk management assessment laid probable blame on an excessive dose of halothane anesthetic from a faulty vaporizer used during the surgery.

A representative from the vaporizer's manufacturer was given the opportunity to disassemble it, apparently to determine if it was in fact defective.

The effect of allowing the manufacturer to disassemble the vaporizer after the fact was to deprive the parents of the opportunity to proceed with a products liability lawsuit against the manufacturer, whether or not the hospital or the manufacturer had acted in good faith.

Without the vaporizer having been preserved in the same exact condition as it was in the operating room when the apparent overdose took place, there was insufficient evidence to proceed with a products liability case. However, as the District Court of Appeal of Florida pointed out, the law recognizes the right of a patient, parent, guardian or other legal representative to proceed under these circumstances with a civil lawsuit against the healthcare provider for spoliation of the evidence.

When there is proof that physical evidence needed for a potentially rewarding products liability lawsuit has been destroyed, intentionally or not, the healthcare provider must make up the loss. In this case, the court computed that the parents' products liability lawsuit against the manufacturer would have been worth approximately \$8.3 million, had they had the vaporizer intact and been able to proceed, and entered judgment against the hospital. St. Mary's Hospital vs. Brinson, 685 So. 2d 33 (Fla. App., 1997).