

Labor And Delivery Nurses Fail To Report Changes In Infant's Condition To Attending Physician: Hospital Liable.

A mother gave birth to twins by cesarean section. One of the twins was immediately admitted to the neonatal intensive care unit. On admission his skin showed evidence of cyanosis and pallor, according to the court record, he had a weak cry, his muscle tone was flaccid, and he was grunting and retracting.

Suit was filed alleging that the negligence of the hospital in rendering neonatal care had caused this infant to sustain brain damage which resulted in significant childhood developmental delays. The Supreme Court of Nebraska upheld the suit against the hospital.

At trial an obstetrician/gynecologist testified this baby, the smaller twin, had no brain damage at birth, but was a healthy baby suffering from respiratory distress at the time of delivery. The medical standard of care required that a neonatologist should be present any time twins are delivered by cesarean, to assume the care of the smaller baby. The hospital should have had a policy requiring a neonatologist and another physician to be present from the beginning of the cesarean procedure, according to the expert testimony presented on behalf of the infant's family.

However, the court ruled that a hospital does not have a duty to institute policies which substitute its judgment for that of the attending physician. The court would not rule that the hospital could or should have compelled the attending physician to bring in other physician-specialists from the start.

The court did assign a large quantum of blame to the nursing staff in the neonatal intensive care unit. The hospital, through its nursing staff, had the legal duty to report abnormal changes in the infant's condition to responsible medical personnel.

The nursing notes stated the infant was lethargic and demonstrated poor muscle tone, shallow respirations and little movement. His tone was described as poor. Chest retractions were noted. These signs, according to a expert witnesses, showed acute brain damage as a consequence of lack of delivery of oxygen and inadequate cerebral perfusion.

A pediatric neurologist and a professor of nursing both testified it was below the accepted standard of care for pediatric neonatal nursing practice for the neonatal nurses not to have called the physician when non-reassuring neurological signs were noted.

Ventilation and respiratory support should have been given through intubation, or with nasal prongs, or with continuous positive airway pressure. Bicarbonate should have been given in anticipation that the infant was going to be acidotic.

Failure to report significant neurological changes is not acceptable nursing practice in a neonatal intensive care unit, according to the ruling of the court in this case.

SUPREME COURT OF NEBRASKA, 1995.

According to the court, there was a significant departure from accepted nursing standards during the first twenty four hours of this infant's life, when the infant needed additional blood gas tests and oxygen treatment for acidosis. The nurses had the duty to call the attending physician when the infant began to manifest non-reassuring symptoms.

It is the nurse's responsibility, according to the court, to inform the attending physician of any patient behaviors or lab tests which are outside the norm, so that the physician can make a medical diagnosis. There was enough data from the nurses' notes of lethargy, shallow respirations and poor muscle tone for the nurses to know that a physician should have been notified, according to the court.

The court stated, "It is obvious that the hospital, via its nursing staff, has a duty to report medically significant changes in the condition of a patient without delay to the treating physician or the physician in charge. Thus if there were changes in the infant's condition that were medically significant, there existed a duty on the part of the hospital to report such changes without delay. Such a requirement is basic to appropriate medical care." ***Critchfield vs. McNamara***, 532 N.W. 2d 287 (Neb., 1995).

