LEGAL ISSUES IN LABOR AND DELIVERY NURSING

For the Nursing Profession

Hello, my name is Ken Snyder. I am an attorney and a registered nurse. For more than twelve years I have been writing and publishing Legal Eagle Eye Newsletter for the Nursing Profession, in which I follow and highlight the latest legal developments affecting nursing practice.

In this program I will focus on the latest legal developments in labor and delivery nursing. The format for this program will be to discuss some important recent court decisions which show where the law is going and some decisions that re-affirm the traditional legal principles that still apply in this specific clinical area.

I want to repeat that this program focuses on labor and delivery nursing. There are lots of things that can go wrong in the labor and delivery unit. It is a very complicated area of clinical practice. I do not claim to be a qualified nursing expert in this area.

Medical ob/gyn practice and hospital labor and delivery units are big sources of opportunity for plaintiffs' trial lawyers looking for lucrative damages cases. I am not focusing on the whole field of labor and delivery, just on legal issues directly applicable to nurses, issues that have come up in the US state and Federal court decisions over the past few years.

The most typical scenario that comes up in court time and again in labor and delivery cases involving nursing negligence is when the nurses monitoring the progress of the mother's labor fail to notify the physician of monitor tracings that indicate the fetus is in distress.

A good place to dive right into this topic would be to look at a recent case that is very, very typical of the court cases which fault labor and delivery nurses for negligent errors and omissions. The case is Garhart versus Columbia/Healthtone 95 P.3d 571 Supreme Court of Colorado June 2004.

The nurse phoned the ob/gyn physician at 11:15 pm. She happened to be very close by in the hospital's physician's lounge. The nurse told her there were (quote) "mild to moderate variable decelerations."

Six minutes later there was a further sharp decline in the fetus's condition, according to the court, based on the decelerations appearing on the monitor. The nurses repositioned the mother and gave her oxygen but did not phone the physician again for more than an hour.

One and one half hours after the first call to the physician's lounge the nurses did call the physician.

She came in and immediately attempted a very difficult expedited vaginal delivery which severely injured the mother and did not promptly relieve the fetus's distress.

The court believed the nurses should have promptly reported the decelerations seen six minutes after the first call, which were probably evidence of fetal acidosis mandating a prompt cesarean section. They should have insisted the physician come

to the delivery room to look at the monitor strips for herself.

The physician testified she would have promptly ordered an emergency cesarean at the six minute interval after the first call if the nurses had informed her of the true seriousness of the situation.

The verdict against the hospital was more than $12,000,000. The big issue in the case was **not** whether the nurses were negligent. The big issue was Colorado's new statutory cap on medical malpractice damages. Many other states have enacted legislation to try to stop the runaway damages awards civil juries are giving in these cases, but that varies from state to state and is more of a concern for the lawyers after the fact than for the nurses before the fact.

The exact opposite scenario from the Garhart case came out in the case Dumas versus West Jefferson Medical Center 722 So 2d 1210 from the Louisiana Court of Appeals in December 1998.

THIS IS WHERE THE PREVIEW ENDS