Labor And Delivery: Nurses May Have Been Negligent, But Court Unable To Link Negligence To Baby's Death.

In the mother's and father's wrongful death lawsuit against the hospital, nursing and medical expert witnesses testified the legal standard of care was breached by the hospital's labor and delivery nurses.

But that was not enough for the lawsuit to go forward successfully. As a general rule in any professional malpractice case, there must be solid proof of a cause-and-effect relationship between a healthcare professional's negligence and harm coming to the patient. The law refers to this as proximate cause.

In this case the Appellate Court of Illinois accepted it as a fact for purposes of argument that the labor and delivery nurses did not watch the monitor strip carefully, were not able to interpret what they saw, did not notify the obstetrician of changes that actually were there to be seen in time for the obstetrician to have done a cesarean that would have saved the baby and did not go over the obstetrician's head to a nursing supervisor as would be a nurse's legal responsibility.

However, the court was not convinced the obstetrician would have acted even if the nurses had brought the monitor tracings to his attention or even if a nursing supervisor had done the same thing.

As a general rule, for a hospital to be held legally liable for its nurses' negligence, the legal requirement of proximate cause dictates that a nurse's inaction is not legally the cause of harm unless the physician would have taken action if the nurse had done the nurse's duty of bringing a problem to the physician's attention.

In this case there was no solid proof the physician would have concurred with the nurses' reading of the monitor strips at 1:00 a.m. and done a cesarean then, even if the nurses had read the strips properly and tried to get his attention. **Seef v. Ingalls Memorial Hospital, 724 N.E. 2d 115 (Ill. App., 1999).**

The legal responsibilities of a labor and delivery nurse include:

Watching the monitor strip for changes that may signal the fetus is in distress.

Notifying the obstetrician of changes that may signal fetal distress.

Notifying a nursing supervisor if the obstetrician does not take action when it appears to the nurse the fetus may be in distress.

The purpose is so that if necessary in the physician's medical judgment a cesarean can be performed in time to save the fetus.

In this case the nursing expert and the medical expert who reviewed the monitor strips saw the same problems on the strip that was run at one centimeter per second which the nurses apparently missed at the time in question.

Thus it was irrelevant that the strip was run at a slow speed to save paper. Running it faster in this case would not have made a difference, even if the tracings came out clearer with the strip running faster.

APPELLATE COURT OF ILLINOIS, 1999.

Confidential Records: Nurse/ Investigator Did Not Redact, Court Upholds Client's Lawsuit.

A personal-injury lawfirm's nurse/investigator was teaching a community college class for nurses who wanted to work in the legal field. One topic taught in the class was how to read and summarize a patient's medical records for the benefit of a personal-injury attorney representing the patient as a client.

Her employer, a lawyer, obtained signed express written permission from one of the lawfirm's personal-injury clients for the nurse/investigator to use the client's medical records for the class.

The agreement was that the client's name would be redacted, i.e., completely whited-out from each and every page of the records that were used in the class.

Just like an attorney a lawfirm employee has a strict duty to maintain the confidentiality of a client's medical records, even after the client's legal case has been concluded.

The client can sue legal professionals for invasion of privacy for unauthorized disclosure of confidential medical information.

COURT OF APPEALS OF WISCONSIN, 1999.

The nurse/investigator used many pages of confidential medical records in the class from which the client's name had not been removed. The Court of Appeals of Wisconsin upheld the client's right to sue the nurse/investigator and the attorney and his lawfirm and the community college as her employers. **Thiery v. Bye, 597 N.W. 2d 449 (Wis. App., 1999).**