

LEGAL EAGLE EYE NEWSLETTER

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For the Nursing Profession

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Labor & Delivery Nursing: Court Says Local Factors Are Relevant In A Liability Lawsuit.

After she awoke in pain, the mother who was thirty-four to thirty-five weeks pregnant and an insulin-dependent diabetic was driven to the only hospital in a city of 27,000 people.

She went right up to the labor and delivery department and was met by the nurse on duty who had thirty-three years experience. The nurse helped her into a gown, got her medical history and started a fetal monitor which showed a normal heart rate and good variability, signs of fetal wellbeing.

After twenty minutes the nurse phoned the patient's ob/gyn and told him she was in the hospital with pre-term contractions and had a lot of pain.

Prolonged decelerations began two minutes after the phone call. The nurse turned her on her left side, started O₂ and raised her feet higher than her head.

Almost half an hour later the nurse phoned the patient's ob/gyn again and reported that the late decelerations were continuing and that the uterus was tense and asked him to come to the hospital. He lived only five or ten minutes away and usually came in right away.

Ten minutes after that the nurse paged him. He arrived within eight minutes and delivered the baby forty minutes later by cesarean. The baby was born with cerebral palsy from a placental abruption.



The labor and delivery nurse's nursing expert testified that the nurse's actions met the national standard of care for assessing and monitoring her patient and interpreting the monitor strips.

However, there is no national norm for the resources available to a nurse like choices of available physician specialists in a particular practice setting.

SUPREME COURT OF KANSAS
January 11, 2013

The Supreme Court of Kansas upheld the jury's verdict of no negligence by the labor and delivery nurse.

The jury did not accept the testimony of the family's nursing expert, director of women's services at a large metropolitan hospital, that the nurse was required to initiate the hospital's chain of command to get another ob/gyn to come in right away after the decelerations showed up minutes after the first phone call to the patient's ob/gyn.

Instead, the jury followed the judge's admonition to consider the local conditions in effect at the small-city hospital where the events in question occurred and weigh the nurse's actions accordingly.

The patient's own medical expert had to admit that things are quite different at the hospital where he works, which has more than one hundred obstetricians on staff. Two obstetricians were on staff at the hospital where the nurse was working.

The nurse's attorney argued it might be true in some locations but it was not realistic in this small city for a nurse to think she can pick up the phone and initiate the hospital's chain of command and expect an obstetrician to materialize out of thin air. ***Bates v. Dodge City Healthcare***, __ P. 3d __, 2013 WL 135570 (Kan., January 11, 2013).

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