

Skin Care: Nurse Accepted As An Expert Witness.

The patient underwent surgical revision of a total right hip replacement and was sent to a med/surg floor.

Days later when she was transferred from the hospital to a skilled nursing facility she had decubitus ulcers on her coccyx and right buttock, which were treated successfully over the ensuing weeks.

The patient sued the hospital. The hospital chart failed to document that turning and other preventative and protective skin care was performed. The patient was also left on a bedpan overnight.

A nurse can testify as an expert on nursing standards and on the question whether a breach of nursing standards caused the patient's injury.

CALIFORNIA COURT OF APPEAL
November 8, 2013

Without deciding the ultimate issue of nursing negligence, the California Court of Appeal reversed the decision of the lower court. The lower court had dismissed the case out of hand because the patient's nursing expert was not a physician and it was felt she could not testify on the issue of causation, a necessary element for the patient to prove in a healthcare liability case.

The Court of Appeal noted that the current national trend is to allow a nurse to testify as an expert if the nurse possesses sufficient relevant knowledge.

This patient's nursing expert had an extensive resume of over forty years of training and experience in many specialty areas of post-surgical nursing.

A nurse knowledgeable in the realm of skin care can testify as to nursing standards for care of a post-surgical patient.

The Court saw no reason to stop a knowledgeable nurse from going further and giving an opinion in court that a predictable injury like a patient's decubitus ulcer was caused by a violation of the nursing standard of care identified by the expert. [Ray v. St. Francis Med. Ctr., 2013 WL 5952175 \(Cal. App., November 8, 2013\).](#)

Labor And Delivery: Jury Links Infant's Hypoxic Brain Damage To Nursing Negligence.

The family's medical expert testified that the patient's nurses should have called in the on-call obstetrician to look at the monitor strips, rather than merely calling the patient's obstetrician to relay the nurses' own interpretation of what was going on.

The nurses believed the prolonged deceleration of the fetal heart rate, three minutes in the 60-70 range which went back to 90-100, was a side effect of the mother's epidural which had just been started.

The family's medical expert said, however, that after a significant period of abnormal tracings the monitor strip must be evaluated by a physician.

The nurses used their discretion under hospital nursing protocols which permitted nurses to give a fluid bolus, change the mother's position and give epinephrine and amyl nitrate.

The nurses' vaginal exam and stimulation of the fetal scalp indicated to them that their interventions were successful and that the baby was not in distress.

A CT several hours after birth revealed that serious brain damage was present.

COURT OF APPEALS OF KANSAS
October 18, 2013

On behalf of their baby born with profound hypoxic brain damage the family sued the hospital which employed the labor and delivery nurses and sued their own obstetrician and several other independent-contractor physicians who practiced at the hospital.

The Court of Appeals of Kansas upheld a multi-million dollar jury verdict for the family which placed blame 100% on the nurses and let the physicians out.

Fetal Monitoring Nurses Did Not Obtain Physician Consult

Major delays occurred even after the physicians finally decided that the birth had to be hastened, due to the fact that certain physicians who were present balked at going ahead because they did not have hospital privileges to perform forceps deliveries and/or cesareans, until a resident physician ultimately decided it was necessary to forge ahead in an emergency with or without supervision and performed a vaginal delivery.

Nevertheless the jury accepted the testimony of the family's physician obstetric expert that blame lay entirely with the labor and delivery nurses.

The nurses saw significant abnormalities on the monitor strips and phoned the mother's obstetrician, who told them she was just leaving home to go to another hospital to deliver another patient's baby.

The nurses related their own assessment of the situation, that the abnormalities they had seen on the strips had resolved. The nurses went ahead with standard nursing interventions including adjusting the mother's position in bed, giving an IV fluid bolus, giving oxygen and giving medications to relax the uterine muscle tone after an apparent tetanic contraction.

However, according to the family's obstetric expert, after seeing abnormal tracings over a period of longer than thirty minutes the labor and delivery nurses should have called in a physician, the on-call obstetrician, to come to the room and personally review the monitor strips. [Unruh v. Haque, 311 P. 3d 415 \(Kan. App., October 18, 2013\).](#)