

## Breast Cancer: Delay In Treatment Tied To Nurse's Negligence.

The patient reported breast tenderness and pain to her nurse practitioner.

The nurse practitioner did not perform a physical exam but did refer the patient for a mammogram and ultrasound. The radiologist's interpretation of the mammogram done three days later was microcalcifications which were probably benign.

The radiologist's recommendation was for follow-up within three to six months. His recommendation was stated in his written report which he mailed to the patient's primary care physician at the clinic.

The patient was never informed of the radiologist's recommendation for follow-up when she saw her primary care physician and her nurse practitioner in the same clinic multiple times over the next sixteen months for various health concerns.

Sixteen months after her mammogram the patient referred herself to a breast specialist who did a biopsy which found high-grade ductal carcinoma in situ. That diagnosis led to a mastectomy during which a sentinel node biopsy showed the Stage IIIC ductal carcinoma was invasive. The patient's prognosis at this time is poor.

***The patient's medical expert linked her current prognosis to negligence by her primary care physician and nurse practitioner which delayed treatment of what actually was rapidly progressing breast disease.***

COURT OF APPEALS OF TEXAS  
June 26, 2014

The Court of Appeals of Texas agreed with the patient's experts that the nurse practitioner and primary care physician were negligent for failing to inform and instruct the patient about the radiologist's recommendation. Earlier follow up likely would have led to earlier diagnosis, earlier intervention and a more positive outcome. ***Consultants in Radiology v. S.K.***, 2014 WL 2922301 (Tex. App., June 26, 2014).

## Labor & Delivery Nursing: Prolapsed Cord, Court Sees Grounds For Negligence Suit.

***The jury ruled in favor of the hospital, but the jury's verdict was tainted by legal error by the judge and a new trial must be held.***

***The trial judge erred when he instructed the jury they could find the hospital not liable for the nurses' actions if the nurses were simply reacting in the face of a sudden emergency which was not and should not have been anticipated.***

***As a general rule, legal liability is not imposed upon an individual for failing in the face of a sudden and unexpected emergency to use the same prudent judgment that would come to bear when there is sufficient time to deliberate calmly before acting.***

***The common-law sudden-emergency doctrine is not applicable to this case.***

***The nurses did not adhere to accepted nursing standards and did not follow the hospital's own internal nursing protocols.***

***There should have been a vaginal exam before the Pitocin was started. That exam more likely than not would have caught the problem and led to a c-section much sooner.***

COURT OF APPEALS  
OF NORTH CAROLINA  
July 1, 2014

The mother was admitted to the hospital for induction of labor. Induction was paused during the night and resumed at 8:00 a.m. in the morning.

Her prenatal care had revealed nothing that alerted her caregivers to any heightened risk factors.

### **No Vaginal Exam**

#### **Before Induction of Labor**

At 12.54 p.m. while induction was well underway a labor and delivery nurse performed the first vaginal exam since the mother's admission. A prolapsed umbilical cord was discovered.

The nurse immediately notified the attending physician and steps were set in motion for an emergency c-section. The c-section was started within sixteen minutes.

The newborn's APGAR scores were 0 at one minute, 3 at five minutes and 7 at ten. The baby was transported to a specialized children's hospital but severe brain damage could not be avoided which has left the child with permanent cognitive impairments and loss of motor control.

### **Lawsuit Alleges Violations of Nursing Standards, Hospital Protocols**

Testimony from the parents' medical expert accused the hospital's labor and delivery nurses of negligence.

Labor and delivery nurses must perform a vaginal exam on admission before induction of labor is started with Pitocin.

The results of the exam, one way or the other, which in this case was not actually performed on admission, should be communicated to the attending physician.

If Pitocin is in use when a prolapsed cord is discovered it must be stopped immediately to arrest the induction of labor and terbutaline started to slow or stop the mother's contractions.

The mother should be moved to the operating room as quickly as possible to get an emergency c-section started.

The Court of Appeals of North Carolina ruled the parents' expert correctly stated the nursing standard of care, which the hospital had incorporated into its own internal nursing protocols. ***Wiggins v. East Carolina Health***, \_\_ S.E. 2d \_\_, 2014 WL 2937083 (N.C. App., July 1, 2014).