

Miscarriage: Hospital Liable For Nurse's Infliction Of Patient's Emotional Distress.

The Superior Court of Pennsylvania upheld a lower court judge's decision to award damages for negligent infliction of emotional distress to a woman who experienced a miscarriage in a hospital emergency department examining room, and then was given the dead bloody fetus by a nurse to hold and to be photographed.

The nurse testified her rationale in doing this had been to alleviate the mother's stress and to assist her in bonding with the fetus she had just lost.

In addition to these actions by the nurse, the court ruled that the hospital was negligent for not seeing that the patient was attended to prior to her miscarriage as was the physician for not seeing to the patient more promptly, contributing to the emotional distress the patient experienced in this incident.

There were no allegations put forward in this case that more prompt medical intervention could have prevented the miscarriage or have saved the fetus.

According to the court, it was not necessary for the judge to consider any evidence defining the appropriate standard of care for professional nursing under the circumstances presented in this case. The court ruled that the "matter under consideration in this case was so simple," and the "lack of skill or want of care" was so obvious as to be "within the range of ordinary experience and comprehension of even non-professional persons," which the court ruled permitted the judge to dispense with the usual requirement of expert testimony that the standard of care had been breached, to render a decision against the hospital over the nurse's actions.

The court accepted a psychiatrist's report that the woman was experiencing knots in her stomach, frequent headaches and nightmares and major depression, all due to the incident. **Brown vs. Philadelphia College of Osteopathic Medicine**, 674 A. 2d 1130 (Pa. Super., 1996).

A pregnant woman and her husband came to the emergency room. She had severe abdominal pain, vaginal bleeding and nausea.

An ultrasound the day before at the same hospital showed she was sixteen weeks pregnant.

An hour and a half later, before anyone saw her, she miscarried in an examining room with only her husband present.

She waited fifteen more minutes to be seen, with the bloody dead fetus dangling between her legs.

A physician came in, cut the umbilical cord and placed the fetus in a metal pan.

Then a nurse came in, had the woman hold the pan with the dead fetus, and photographed her holding it.

The nurse's stated purpose was to alleviate the mother's stress and to help her bond with the fetus.

The court upheld an award of damages against the hospital and physician in favor of the woman for negligent infliction of emotional distress, but denied her husband's claim for a similar award of damages.

SUPERIOR COURT OF PENNSYLVANIA,
1996.

Narcotics Diversion And Medication Tampering: Nurse's License Suspended, Then Reinstated.

Based solely upon the sworn affidavit of the director of nursing at the hospital where a nurse was employed, a nurse's license was suspended on an emergency basis by the state board of nursing. The affidavit set forth the nursing director's opinion that the nurse in question had tampered with medications and diverted narcotics to her own use. The board of nursing ordered that the nurse see a physician of its choice for a complete addictionology assessment.

The nurse complied with the board's order and saw the physician. His report, however, concluded there were no subjective or objective findings to substantiate that the nurse was a drug abuser or drug-dependent person. The board of nursing ordered a hearing to consider the physician's report, to hear testimony from other nurses at the hospital on the issue of whether the nurse was guilty of tampering and/or diversion and to decide whether her license suspension should continue.

Although two nurses testified they believed the nurse had tampered with medications and diverted narcotics, the board felt the charges could not be proven conclusively. The emergency suspension of the nurse's license was ruled improper and was overturned retroactively, effectively restoring her to full professional standing.

The nurse filed a request to have the administrative record amended to reflect that the board was ruling that she had not tampered with medications or diverted narcotics, not simply that the charges against her had not been proven. However, because she waited more than thirty days to file this request, it was denied by the Court of Appeals of Indiana. **Bowman vs. State Board of Nursing**, 663 N.E. 2d 1217 (Ind. App., 1996).