Nursing Negligence: Court Finds Nurse's Report Insufficient.

The lawsuit alleged nursing negligence in the care of a post-surgical patient. While still not fully recovered from general anesthesia the patient fell out of bed, allegedly because the nurses failed to put the bed rails up and/or to failed to restraint the patient.

The Appellate Court of Illinois thew out the case.

The court pointed to the state's healing arts malpractice statute, similar to medical malpractice statutes in other states, which requires an affidavit of merit to be filed with the court. The affidavit of merit must be backed by an opinion from a physician that there has been negligence that harmed the patient.

The courts generally deem nurses qualified to testify on the issue nursing negligence. But it is still necessary, this court ruled, for a plaintiff to comply strictly with the state statute if the statute calls for a physician's opinion. **Giegoldt v. Condell Medical Center, 767 N.E. 2d 497 (Ill. App., April 4, 2002).**

Visitor Gets Power Of Attorney: Hospital Not Responsible.

The Court of Appeal of Louisiana ruled that a hospital has no legal liability to other family members when a patient's grandson visits in the ICU, gets his grandfather to sign a power of attorney and then uses the power of attorney to empty the grandfather's bank accounts. **Randall v. Chalmette Medical Center, Inc., 809 So. 2d 1129 (La. App., May 22, 2002).**

L & D: Nurses Responsible For Delayed Cesarean.

It was her first child. The patient was the only patient in the labor and delivery room that afternoon. She began to experience pain different from the labor pains she had been having that morning. It was intense, like someone had stuck a knife in her and twisted it, she said.

Only after the patient's husband, mother and father each went to the nurse's station and complained vehemently that nothing was being done did one of the nurses check on the patient and realize something was seriously wrong.

The nurse paged the physician and reported that the fetal heart rate was only 60 to 70. Apparently it was the first time the nurses had noticed that fact.

The physician was in her car and began racing to the hospital. She phoned ahead from her car to make arrangements for an emergency cesarean. During the procedure it was noted the mother's uterus had ruptured in three places.

The Supreme Court of Virginia faulted the nurses for significant neurological damage to the infant the experts believed could be traced to the interval from thirty minutes after the extreme pains began until thirty minutes before the cesarean was actually started. **Howerton v. Mary Immaculate Hospital, Inc., 563 N.E. 2d 671, 2002 WL 1269344 (Va., June 7, 2002).**

When a woman in labor experiences pains of a different type, character and intensity than labor pains, the nurses must evaluate hers and the fetus's status, anticipating that optimally it takes another thirty minutes to get an emergency cesarean underway.

SUPREME COURT OF VIRGINIA
June 7, 2002

Employee Handbook: Court Throws Out Nurse's Breach Of Contract Suit.

Over the course of nineteen years a nurse worked her way up the ladder from labor and delivery staff nurse to patient care manager at one of the parent corporation's facilities.

She was given informal assurance by the corporate director of women's health she was on track for promotion to patient care manager at the corporate level for all the subsidiary facilities. When the position was formally posted as open, however, the corporate director and another executive decided to take fresh look at her and decided her management style was too one-sided, inconsistent with the new corporate style of shared governance.

She did not get the position and sued for breach of contract. The Court of Appeals of Wisconsin dismissed her case.

Misplaced Reliance On Employee Handbook

The court noted there were factors distinguishing this case from the modern trend toward the courts seeing employers' handbooks as creating binding contracts with employees.

First, the employee handbook stated expressly it was only a guide to the employer's policies and was not a contract.

Second, in the handbook the employer expressly reserved the right to formulate and to change its policies unilaterally at any time for any reason.

Third, there was no requirement that the employee agree to be bound by the provisions of the handbook to retain employment. The employee in this case made no mutual contractual promise to her employer to abide by the employee handbook, such mutuality being one of the legal hallmarks when a binding contract exists.

Fourth, the handbook talked about promotion and transfer only in general terms, but did not promise anyone anything. **Tremlett v. Aurora Health Care Inc., 2002 WL 1424224 (Wis. App., July 2, 2002).**