

Neonatal Nurse Practitioner: Court Defines Standard Of Care For Nurse Specialists.

An infant was born at 26 to 27 weeks gestation weighing approximately 900 grams. He was placed in the hospital's neonatal intensive care unit.

In the neonatal ICU an umbilical arterial catheter was inserted, among other reasons, to monitor arterial blood gases.

The baby's nurse was a neonatal nurse practitioner. She drew blood from the arterial catheter and repositioned the infant. Twenty minutes later it was discovered that the umbilical catheter had become dislodged, causing the infant to bleed profusely from his umbilical artery. Before it was discovered he had lost about half his blood. No cardiac or respiratory alarm sounded to alert anyone there was a problem with the infant.

According to the Supreme Court of Michigan, there is a dispute about what really happened after this point.

The nurse testified she immediately applied pressure to stop the bleeding and summoned the neonatologist who pushed 20 cc of Plasmanate. The neonatologist testified he did not recall the event.

The nurse testified she then paged the resident on duty in the neonatal ICU who pushed another 10 cc of Plasmanate and 20 cc of packed red cells.

The infant was transferred to a children's hospital three days later. A cranial ultrasound showed there had been intracranial bleeding which was responsible for cerebral palsy and mild retardation.

The jury awarded \$2.4 million. The trial judge ordered the damages reduced to \$475,000 or in the alternative a new trial. After that issue went up on appeal the trial judge threw out the jury's verdict entirely. Then the Court of Appeals reinstated the original \$2.4 million jury verdict against the hospital. See *Umbilical Arterial Catheter: Nurse Faulted, Dislodged Catheter While Drawing Blood*. Legal Eagle Eye Newsletter for the Nursing Profession (9)4, Apr '01 p. 4.

On July 25, 2002 the Supreme Court of Michigan threw out the jury's verdict and ordered a new trial.

When a lawsuit alleges negligence on a hospital's neonatal intensive care unit, the court does not evaluate the case against some sort of standard of care for a hospital's neonatal intensive care unit.

Instead, the court has to evaluate the alleged errors or omissions that have been identified for specific actors against the standards of care for their professions, be they, as in this case, neonatologists, resident physicians, respiratory therapists or nurses.

Physicians are judged by different standards of care depending on whether they are general practitioners or specialists.

Nurses are not judged by the standard of care for physicians. However, there is a comparable distinction between nurses with basic general skills and nurse specialists with advanced practice standing.

The standard of care for a neonatal nurse practitioner is the level of skill and care ordinarily possessed and exercised by practitioners in the same specialty practicing in the same or similar practice settings.

SUPREME COURT OF MICHIGAN
July 25, 2002

Cause and Effect Disputed

The hospital and the other defendants had argued, regardless of whether the nurse was negligent for the umbilical catheter bleeding, there was no evidence linking that event to the intracranial bleeding that led directly to the infant's cerebral palsy.

The defendants also argued that intracranial bleeding leading to cerebral palsy is a not-uncommon occurrence with premature infants, irrespective of any negligence in the infant's care.

Standard Of Care

The Supreme Court of Michigan ruled the verdict was the product of an incorrect rendering of the legal standard of care in the trial judge's instructions to the jury.

There is no general standard of care for a hospital's neonatal intensive care unit, the Supreme Court said. Instead, the errors or omissions of individual actors must be identified and weighed against the standards of care in their professions.

Nurse Practitioners

Nurse practitioners do not practice medicine. They are not judged by the standard of care for general practice physicians or physicians who specialize in the same area of medicine in which the nurse practices, the court ruled.

Instead, nurse practitioners and other nurse clinical specialists are judged by the prevailing standard of care for nurse practitioners or nurse specialists with the same education, experience and certifications practicing in the same field of expertise in the same or similar practice settings.

The court did not make it entirely clear how the clinical judgment or actions would have been different under the circumstances for a nurse practitioner, other specialty nurse, general staff nurse, neonatologist, general practice physician, resident physician or another professional working in the neonatal ICU. The court seemed to be looking for a reason to reverse the verdict and give the defendants another opportunity to defend successfully. ***Cox v. Board of Hospital Managers*, __ N.W. 2d __, 2002 WL 1722063 (Mich., July 25, 2002).**