

Medicare / Medicaid: Quarterly Listing Of Interpretations And Guidelines.

Every three months the US Centers for Medicare & Medicaid Services (CMS) is required to publish a listing of manual instructions, interpretive rules, statements of policy and guidelines of general applicability for the benefit of patients, providers, state Medicaid agencies, state survey agencies and fiscal intermediaries that process and pay bills.

The quarterly listing for October through December 2002 was published in the Federal Register on March 28, 2003.

In addition to the current material for the final quarter of last year there is information how to obtain CMS coverage manuals for the Medicare and Medicaid programs.

We have placed this lengthy document on our website at <http://www.nursinglaw.com/medicare.pdf>.

FEDERAL REGISTER, March 28, 2003
Pages 15196 – 15206

Food And Drug Administration: Annual Listing Of Agenda Topics.

Every year the US Food and Drug Administration (FDA) publishes a listing of guidance documents that are currently being developed and reviewed but which have not as yet been published as mandatory new regulations.

The compilation of documents published in the Federal Register on April 4, 2003 is considered by the FDA to be its agenda for the coming year. The FDA has indicated it wants to inform the public and seek input from the public on specific topics it has under consideration.

Topics under consideration include medical devices like surgical hardware, drapes and gowns, gloves, needleless injection devices, intravascular stents, etc.

We have placed this lengthy document on our website at <http://www.nursinglaw.com/fdaagenda.pdf>.

FEDERAL REGISTER, April 4, 2003
Pages 16523 – 16541

Nurse Attacked By Patient: Court Says Group Home Had No Duty To Control Patient's Behavior.

A nurse employed by the hospital was attacked at the hospital by a patient while the nurse attempted to insert a catheter into his arm.

The patient was over twenty-one years of age, had been diagnosed as profoundly retarded and very aggressive and was already on medication for obsessive compulsive behavior.

The New York Supreme Court, Appellate Division, pointed out the patient was admitted to the hospital for diagnosis and treatment of his violent outbursts. The hospital was experienced with developmentally-disabled persons and had a special unit for them where staff were specially trained.

The direct care worker from the group home who was trained to restrain the patient was not in his hospital room when the nurse was attacked.

As a general rule the law imposes no duty on one person to protect another by controlling the conduct of third persons, unless a special relationship exists.

Special relationships include parents controlling their children, employers controlling their employees and common carriers controlling their passengers and other patrons.

NEW YORK SUPREME COURT
APPELLATE DIVISION
March 17, 2003

The only group home employee present was a nurse there only to obtain nursing and medical data relevant to his care.

Negligence Claim Against Group Home Thrown Out

The injured nurse sued the group home for negligence. The law defines negligence as the existence of a legal duty, breach of the duty and harm to another caused by the breach.

The court ruled the group home had no legal duty to protect the nurse from harm under the circumstances. The court found no exception existed here to the general rule that the law does not require one person to control third persons for the safety of another. ***Edwards v. Mercy Home, 755 N.Y.S.2d 737, 2003 WL 1240440, (N.Y. App., March 17, 2003).***