

Nurse As Aides' Supervisor: Court Upholds Nursing Board's Disciplinary Action.

The Supreme Court of Appeals of West Virginia has upheld a one-year license suspension imposed upon a registered nurse by the state nursing board.

The basis for the suspension was the grossly unprofessional manner in which the nurse carried out her job responsibilities to supervise non-licensed homemaker personnel working in Medicaid clients' homes.

An inspector from the state department of health and human services selected at random five of the nurse's agency's clients' cases to review.

The inspector found numerous violations. Several of the homemakers did not have the required in-service training hours. In-home client files were absent or had not been reviewed monthly by the supervising nurse.

Homemakers were absent when they should have been present. The supervising nurse documented a client visit in which she found the homemaker absent, but an audit of the personnel records indicated the homemaker actually was there. That led to the conclusion the supervising nurse did not actually make the visit.

Unprofessional Conduct

Supervision of Non-Licensed Personnel

The court noted that the state's nurse practice act defines unprofessional conduct for a nurse to include falsification of documentation regarding the delivery of nursing care, whether or not the nurse is the one actually performing the care.

Supervision of other personnel necessarily involves true and correct documentation of how such personnel have or have not performed their patient-care duties.

It is unprofessional conduct warranting severe disciplinary action for a nurse to document falsely that the nurse or another person in the nurse's charge has performed services that have not been rendered, the court ruled. Williams v. West Virginia Board of Examiners, __ S.E. 2d __, 2004 WL 1432298 (W. Va., June 24, 2004).

The nurse was employed by an agency that had a state Medicaid contract to provide in-home homemaker services.

The nurse did not provide direct patient care herself.

The nurse's responsibility was to oversee and to document homemaker services provided to clients by the agency's homemaker personnel.

The Board of Nursing has the authority and the responsibility to regulate conduct by a nurse which is derogatory to the morals or standing of the nursing profession.

Such conduct can include falsifying patient records or intentionally charting incorrectly, or improperly, incompletely or illegibly documenting the delivery of nursing care.

The nurse apparently documented a supervisory visit to a homemaker client she never actually made.

The nurse also failed to ascertain that home-care files were present in each client's home and documented that she reviewed such files that did not exist.

SUPREME COURT OF APPEALS
OF WEST VIRGINIA
June 24, 2004

No Designated Driver: Case Should Have Been Cancelled.

The patient was to have a colonoscopy at an outpatient medical center. The procedure was to be performed with the patient under heavy sedation.

When the patient arrived for the procedure the nurse asked him how he would be getting home afterward. He gave the name of a friend, but the friend did not show up.

The patient signed a form post-procedure acknowledging that he was leaving the center against medical advice.

He tried to drive himself home alone, had a one-car accident and died from his injuries. His widow sued the outpatient center for negligence.

The outpatient center's own policies and procedures said that a procedure should be cancelled and rescheduled if there is no one accompanying the patient to drive him home afterward.

COURT OF APPEALS OF ARKANSAS
June 23, 2004

The Court of Appeals of Arkansas overruled a lower court judge's ruling that the outpatient center owed no legal duty to the patient in this situation.

The Court of Appeals agreed with the lower court judge that the center's nurses gave the patient all the proper warnings before and after the procedure. The Court agreed there was nothing legally the center could have done to stop him from leaving.

The Court of Appeals believed the best course of action would be not to start a procedure in the first place with a patient who has driven in unless a suitable designated driver is standing by. Young v. Gastro-Intestinal Center, Inc., __ S.W. 3d __, 2004 WL 1398610 (Ark. App., June 23, 2004).