PCA Pump: Nurse Instructs Family Member To Give Doses Of Morphine, Products Liability Claim Thrown Out.

According to the US Court of Appeals for the Eleventh Circuit, the patient's nurse knew that a nurse was not authorized to permit anyone but the patient to press the button to deliver a dose of medication from a patient's PCA pump unless the nurse was authorized by a physician to do that.

However, without a physician's authorization and contrary to hospital policy, a nurse told a patient's daughter she should press the button for her mother while her mother slept through the night when it seemed to the daughter that her mother was in pain.

The patient had had bilateral knee-replacement surgery two days earlier and her physician had put her on a PCA earlier the day after surgery for complaints of increasing pain.

At 7:00 a.m. after her daughter had been giving her morphine while she slept the physician on rounds found she was having difficulty breathing. She then went into cardiac arrest, which led to anoxic brain injury.

The hospital agreed to a structured settlement as compensation for the nurse's negligence, that is, the hospital would make a series of payments to the patient's court-appointed guardian to provide for her care. The structured settlement's present economic value was approximately $8,000,000 at the time of settlement.

With the hospital released from the litigation, the case went ahead against the manufacturer of the PCA pump until the Federal District court ruled the manufacturer had no liability and the Circuit Court of Appeals agreed. The rationale was the common-law learned intermediary rule.

There was also a complex discussion of the Federal Food, Drug and Cosmetic Act in the Circuit Court's opinion. **Ellis v. C.R. Bard, Inc., __ F. 3d __, 2002 WL 31501163 (11th Cir., November 12, 2002).**

The hospital paid a substantial settlement to the guardian for the patient, now brain-damaged following cardiac arrest attributed to a morphine overdose from her patient-controlled analgesia (PCA) pump.

The guardian's products-liability claim against the PCA's manufacturer will be dismissed. Only the nurses and doctors at the hospital are to blame.

The common-law "learned intermediary" rule applies to this case.

A manufacturer of a prescription drug or prescription medical device does not have responsibility for warning the patient of potential dangers. Instead, the manufacturer must warn the physicians who will prescribe the drug or device and the nurses who will provide it to patients.

Doctors and nurses are the ones who are responsible for knowing of potential dangers and for including warnings in their instructions to their patients.

UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT
November 12, 2002

SQ versus IM Injection: Court Approves Verdict Against Hospital.

The Court of Appeals of Michigan approved a $190,000 verdict for disfigurement to a patient's buttocks from an injection apparently not given deep enough to reach the muscle tissue.

The court ruled there was no error in the trial judge allowing the patient's attorney to theorize the nurse not charting what became apparent later was an attempt to cover up her negligence. **Mann v. Bay Medical Center, 2002 WL 31357858 (Mich. App., October 18, 2002).**

A registered nurse has the expertise to testify about the legal standard of care for giving injections.

A nurse can testify that a certain drug, in this case Vistaril, must be given intramuscularly and must not be given subcutaneously.

That is, a nurse can testify it is faulty practice for a nurse not to be sure the needle is going deep enough to reach the muscle and to ignore the patient's complaints of pain during the injection.

A nurse can testify in general terms what can happen if a particular medication is not injected properly.

How the specific injury happened to the specific patient requires a medical specialist's testimony.

COURT OF APPEALS OF MICHIGAN
UNPUBLISHED OPINION
October 18, 2002