

## Transfer: Nurse Did Not Report Ob/Gyn Patient Showing Signs Of Abruption.

A case from the US District Court for the Northern District of Iowa produced a jury verdict of \$1,710,000 for the parents of a stillborn child.

After she began having vaginal bleeding, abdominal pain and contractions at home the mother was taken to the emergency room at a rural community hospital.

The physician on duty got the ultrasound tech to perform an ultrasound, but had to send the images electronically to an on-call ob/gyn in Minnesota for interpretation. They decided it was best to have the mother transported to a hospital one-hundred miles away in Sioux Falls, SD which had far better obstetric capabilities.

A nurse from the rural community hospital was assigned to ride along with the mother. During the trip the mother was having rapid contractions, profuse vaginal bleeding and severe abdominal pain while the fetal monitor in place was showing clear signs of fetal distress.

### Nurse Failed to Report While Patient Was In Transit

The nurse made no effort to contact a physician at the first hospital or at the hospital where they were going to report that the fetus was in distress because signs were there that the placenta had abrupted and/or the uterus had ruptured.

Had the nurse reported what was going on, the experts told the jury in court, the ambulance could have been diverted to one of several community hospitals along the way where an emergency cesarean could have been done which, more likely than not, would have saved the baby.

There were also allegations that the physician at the first hospital did not follow the letter of the Emergency Medical Treatment and Active Labor Act (EMTALA) before sending the patient to another facility. [Heimlicher v. Steele](#), \_\_\_ F. Supp. 2d \_\_\_, 2009 WL 1361164 (N.D., Iowa, May 14, 2009).

## Seizures: SNF Violated CMS Regulations, Civil Monetary Penalty Upheld By US Court.

***CMS regulations for skilled nursing and long-term care facilities require:***

***The facility must develop and implement written policies and procedures that prohibit mistreatment, abuse and neglect of residents and misappropriation of resident property.***

***Simply maintaining documents in a file, without also implementing the policies contained therein and regulating staff actions to assure compliance, does not satisfy the regulation.***

***The facility must also immediately inform the resident, consult with the resident's physician and, if known, notify the resident's legal representative or an interested family member when there is a significant change in the resident's physical, mental, or psychosocial status.***

***Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care.***

UNITED STATES COURT OF APPEALS  
TENTH CIRCUIT  
April 17, 2009

The fifty-four year-old patient was admitted to a skilled nursing facility with diagnoses of end-stage diabetes mellitus, depression, congestive heart failure, renal insufficiency, hypothyroidism and a history of stroke.

### Patient's Care Plan / End of Life Care

The resident's care plan called for staff to watch for shortness of breath, drowsiness, confusion, numbness or tingling, to monitor her blood pressure and to notify her physician of any signs or symptoms of a hypertensive crisis.

Her care plan also called for caregivers to watch for changes in cognitive function that might be indicative of a repeat stroke, and notify her physician.

### Patient's Seizures

When the patient had her first seizure staff members tried to reach the on-call physician but were unable to get through. They called the hospice, but all the hospice did was have someone stop by the next day to look at her necrotic big toe.

After the next seizure two days later the on-call physician was not called for three hours and the resident was sent to the E.R. two and one-half hours after that.

### Surveyors Issue Notice of Deficiency

The facility was cited for violations of the Federal regulations which apply to care of residents under Medicare in skilled nursing facilities and under Medicaid in long term nursing care.

The US Court of Appeals for the Tenth Circuit upheld the citations issued against the facility.

The facility was not guilty of abuse or neglect. Nevertheless the facility still violated regulations which require implementation of written policies and procedures to prohibit neglect and abuse.

The resident had a good solid care plan but the care plan was not followed. The resident was not monitored closely and changes in her health status were not reported to her physician promptly. [Cox Retirement Properties v. Johnson](#), 2009 WL 1028045 (10th Cir., April 17, 2009).