

Substandard Nursing Practice: Court Upholds Board's Disciplinary Probation For Nurse.

The Court of Appeals of Michigan, in a recent unpublished decision, determined there was substantial evidence to support the state Board of Nursing Disciplinary Subcommittee for placing a nurse on disciplinary probation.

Code Incident

An eighty-eight year-old chronic pneumonia/URI patient who was on a ventilator became unresponsive. The nurse apparently did not know what to do. She asked another nurse to help. She had not taken recent vital signs nor did she promptly take vital signs when she first noticed the patient was unresponsive. She could not quickly state the patient's code status when the second nurse was trying to decide what to do, i.e., whether to call a code or allow the patient to expire. She decided the patient was full code. A code was called. She did not know where the ambu bag was, which is the nurse's responsibility. She just froze when the second nurse told her to start and IV. The IV team who happened to be in the hallway came in and got it started. She had not been filling out the patient's ventilator checklist form. She only filled it out for the time frame in question after he died.

A nurse has the right to file an appeal in court to review a decision of the Board of Nursing.

However, in any sort of administrative appeal the reviewing court is required to give considerable deference to the administrative expertise of the agency which made the decision.

The court does not substitute its own judgment for that of the administrative agency because the agency is presumed to have superior expertise.

The court will generally uphold the administrative agency's decision if the decision was supported by competent evidence, even if the judges on the court think they might have reached a different result.

Competent evidence is evidence a reasonable mind would accept as adequate to support the decision.

COURT OF APPEALS OF MICHIGAN
UNPUBLISHED OPINION
November 4, 2004

Blood Pressure Med Not Given

The nurse had phoned the physician because another patient's blood pressure was elevated. When the physician phoned back and asked for the specific BP and what meds the patient was on, the nurse did not know. She phoned the physician back several hours later and confessed she had just forgotten to give the patient his blood pressure med that evening.

Agitated Patient

The nurse phoned the same physician for advice how to calm an agitated patient. Again when asked what medications were ordered and given, the nurse did not know. When the physician came to see the patient all the lights were on in the patient's room and the television volume was really loud. Soon after the physician turned off the lights and television the patient calmed down.

Stool Sample / Occult Blood

The nurse phoned the same physician and told him he needed to order an occult blood test for a stool sample that was obviously bloody. The physician said it was unnecessary. The nurse went ahead anyway and tried to order the test without a physician's authorization.

Legal Standard for Review

When looking at the hearing examiner's findings and the full Board's decision to adopt the hearing examiner's findings the court is only interested whether there was competent evidence.

The court does not substitute its own judgment for that of an administrative agency that has specialized expertise. Cichoski v. Department, 2004 WL 2480479 (Mich. App., November 4, 2004).

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E. Kenneth Snyder, BSN, RN, JD
Editor/Publisher

12026 15th Avenue N.E., Suite 206
Seattle, WA 98125-5049
Phone (206) 440-5860
Fax (206) 440-5862
info@nursinglaw.com
http://www.nursinglaw.com

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Legal Eagle
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