

LEGAL EAGLE EYE NEWSLETTER

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For the Nursing Profession

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Substandard Nursing Practice: Employment Termination, License Probation Upheld.

The Court of Appeals of Michigan ruled the LPN's employer had the right to terminate him and the state bureau of health professions had grounds to suspend his license for two years for substandard nursing practice.

If Care Is Not Documented

Care Is Presumed Not Given

An emergency department patient in the midst of a sickle-cell crisis had various measures ordered for her by the emergency department physician, including an EKG, chest x-ray, lab work and medications.

The chart, however, contained no documentation by the nurse of any follow-up on the physician's orders.

Failure to document patient care is substandard nursing practice, the court pointed out. Going further, failure to document leads to a legal presumption of a more serious departure from professional standards, that is, that the care in question was not given at all.

The nurse testified he actually did comply with the orders, in part, by sending the patient off to the x-ray department ten minutes before the end of his shift.

Even if that could be accepted as true the nurse was still at fault for failing to report about the patient to the next nurse coming on duty.



Failure to document patient care in the chart is a violation of nursing standards of care, even if no actual harm comes to the patient.

When care is not documented in the chart there is a legal presumption of an even more serious departure from professional standards, that is, that the care in question was not given at all.

COURT OF APPEALS OF MICHIGAN
February 12, 2009

Being busy with other patients is a poor excuse for failing to attend to a patient. Raising that as an excuse is pure speculation when the nurse cannot specifically remember the events in question.

A healthcare employer has the right to insist upon a skills reassessment after probable cause is found that a nurse has been derelict in patient care.

Failure to cooperate with correction and to show improvement can be grounds for termination, the court pointed out.

Faulty Patient Assessment

Another patient, a hypertensive diabetic, came to the emergency department with complaints of heartburn for more than a week. Without even taking vital signs the nurse decided it was just heartburn, the patient was not really ill and no further diagnostic work-up was appropriate because tests cost money. The nurse did not have the patient seen by the physician.

Another nurse took over the patient's care and immediately took vital signs, put the patient on a cardiac monitor and reported to the physician that they could have a cardiac patient on their hands.

The patient was not harmed. However, actual harm versus the potential for harm is an irrelevant issue when a nurse's basic assessment skills are being questioned. ***Dept. of Health v. Rahe, 2009 WL 348822 (Mich. App., February 12, 2009).***

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