

# Tracheostomy: Nursing Care Of Pediatric Patient Found Negligent - Not Suctioned Per Physician's Orders.

**T**he hospital tacitly acknowledged that its nursing staff was guilty of a substantial departure from accepted standards of nursing practice, when it agreed to pay a settlement to parents whose child had suffered irreversible brain damage because the physician's orders were not followed for suctioning of the child's tracheostomy tube every two hours during the night.

The physician's legal representatives did not offer to settle with the parents. The case went to trial against the physician alone. The jury's civil verdict exonerated the physician from fault.

The Court of Appeals of Idaho threw out the lower court's decision to disregard the jury's verdict and to order a new trial. In effect, the Court of Appeals was satisfied the physician had a valid defense to civil allegations of professional negligence, his defense being that the negligence of the hospital's staff nurses was the sole cause of the patient's injuries.

The physician was justified in believing that adequate nursing care for this patient should have been available on a hospital's general pediatric floor. That is, had the nurses followed accepted standards of nursing practice, by strictly following the physician's orders to suction this patient every two hours throughout the night, the court was satisfied the patient's injuries would not have happened.

It was not incumbent upon the physician, under the circumstances, to have sent the child to the pediatric intensive care unit for specialized nursing care. Nor was the physician at fault for not ordering a pulse oximeter with an auditory alarm. The evidence the court accepted was that the nurses' failure to follow the physician's orders and accepted standards of nursing practice was the cause of the patient's injuries. **Keyser vs. Garner**, 922 P. 2d 409 (Idaho App., 1996).

***The nursing staff was negligent for not strictly following the physician's orders to suction the patient's tracheostomy tube every two hours during the night.***

***The physician ordered frequent suctioning at regular two-hour intervals to prevent blood and secretions from blocking the patient's airway. The nurses' failure to suction this patient caused his airway to occlude, leading to irreversible brain damage.***

***The eighteen-month-old patient was on the pediatric unit recovering from surgery the previous day to repair his cleft palate.***

***The physician was not faulted for not sending the child to the pediatric intensive care unit. The physician's not ordering a pulse oximeter was also ruled not negligent, as the nurses should have suctioned the patient per the physician's orders without relying on oximeter readings or alarms.***

***Nursing care on a general pediatric unit should have been sufficient for this patient's needs.***

COURT OF APPEALS OF IDAHO, 1996.

## Emergency Medical Treatment And Active Labor Act (EMTALA): Patient Admitted, Not Resuscitated, No Violation.

**O**nce it has been determined that an emergency-room patient is to be admitted to the hospital for acute care, and the patient is admitted, the Emergency Medical Treatment and Active Labor Act (EMTALA) no longer applies, the U.S. Court of Appeals for the Fourth Circuit (Virginia) has recently ruled.

***If a patient is admitted from the emergency room for acute inpatient care, and a no-code order is appropriately entered in the chart, and some days later the patient is allowed to expire rather than an attempt being made to resuscitate the patient, there is no violation of the EMTALA's requirement for stabilizing medical care.***

UNITED STATES COURT OF APPEALS,  
FOURTH CIRCUIT (VIRGINIA), 1996.

The basic purpose of the EMTALA, according to the court, is to prevent "patient dumping" by hospital emergency departments where state laws may not afford an absolute requirement that hospital emergency departments conduct appropriate screening examinations and render necessary stabilizing treatment. Getting patients into the system who might otherwise go untreated is the sole purpose of the law.

If a patient is screened and offered appropriate medical care, the EMTALA is no basis for a lawsuit, according to the court. **Bryan vs. Rectors and Visitors of the University of Virginia**, 95 F. 3d 349 (4th Cir., 1996).