

Tubal Ligation Was Not Done: Court Discusses Nurse's Liability For Faulty Information.

After sorting out the complicated case record, the Court of Appeals of Georgia affirmed the jury's verdict that the patient's treating ob/gyn was not responsible for her unwanted pregnancy following a c-section delivery during which the physician did not perform a tubal ligation as she wanted.

Nurse's Negligence Not Attributed To Doctor

The patient sued her treating ob/gyn physician for negligence. She did not sue his professional corporation, his office nurse or the hospital. The jury found the physician was not negligent in his own right, because the patient did not bring her consent forms with her that she had signed with his office nurse some weeks earlier.

The court ruled that the office nurse was an employee of the physician's medical corporation. As a general rule a shareholder in a corporation is not personally seen as the employer of an employee of the corporation and is not personally liable for the employee's negligence.

The admitting nurses at the hospital did not bring it to the physician's attention that the patient requested a tubal ligation when she entered the hospital.

The physician would not be liable for the negligence of the hospital's admitting nurses, if they were in fact negligent.

Office Nurse Made Assumptions Did Not Check Medical Chart

The court's discussion pointed to fault by the office nurse, even though for technical legal reasons her fault or absence of fault did not determine the legal outcome.

The office nurse should have appreciated the consequences. The patient would be having sexual activity without contraception and risked an unwanted pregnancy. The nurse should not have assumed an important fact, that the tubal ligation had been done, just because the patient had signed the papers, without checking the operative report from the hospital.

De-Vooght v. Hobbs, ___ S.E. 2d ___, 2004 WL 144244 (Ga. App., January 28, 2004).

Six weeks after the patient's c-section the office nurse told her her tubes had been tied and that contraceptives would no longer be necessary.

The office nurse simply assumed the procedure had been done on the basis that she had had the patient sign the forms for it. The nurse did not actually check the operative report.

The office nurse went over the consent forms with the patient, had her sign them and told her to bring them with her to the hospital when it was time for her to deliver her twins which she was carrying in a breech position that would require a c-section.

Included with the paperwork were the consent forms she signed for a tubal ligation.

The patient did not bring the paperwork with her when she went to the hospital and the physician did not do the tubal ligation.

The patient herself was negligent to some extent for not bringing her paperwork with her to the hospital as she was instructed by the office nurse.

COURT OF APPEALS OF GEORGIA
January 28, 2004

Suicidal Patient: Court Faults Hospital.

The Court of Appeals of Texas ruled there are grounds for a negligence lawsuit against an acute care hospital for placing a suicidal patient in a fourth-floor med/surg room with windows and screens that can be opened by the patient.

The patient had voiced suicidal ideation and had taken an overdose of Dilantin as a suicide gesture or suicide attempt. She was moved from the ICU to a med/surg room awaiting transfer to a psychiatric facility, went out on the fourth-floor window ledge, fell and broke her arm.

Even in a general-purpose hospital precautions must be taken for the safety of a suicidal patient, the court stated. This would include the room having window screens that cannot be opened by the patient from the inside. Better yet there should be non-breakable glass which would prevent the patient from getting out.

The court dismissed the patient's med/surg nurses from the case, being unable to find anything they personally did wrong. **Russ v. Titus Hosp. Dist.**, ___ S. W. 3d ___, 2004 WL 193192 (Tex. App., February 3, 2004).

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