

You be the Jury #1

Avoiding Liability Bulletin - December 15, 2011

In previous bulletins, topics such as professional negligence, liability, and the burden of proof have been covered. It might be interesting for you to try and apply some of the principles presented in those bulletins to an actual case (1). Your role is as a juror and you must make a decision as to the negligence or non-negligence of the nurse and/or the hospital defendants in the case.

Mr. Smith, a mechanic, was admitted to ABC Medical Center after suffering a heart attack on September 4, 2006. He had coronary bypass surgery and was transferred to the CCU. His nurse, Mary Jones, began her tour of duty with Mr. Smith as her patient at 7: 00 p.m. after his surgery. The nurse-to-patient ratio in the CCU was 1:1 or 1:2.

When admitted to the CCU, Mr. Smith was in a chemically induced coma. Mr. Smith was very ill during Nurse Jones' shift. He required constant monitoring (blood pressure, blood sugar, and IVs).

At the beginning of the shift, Nurse Jones assessed the IVs, including the IV for Propofol inserted into the vein on the front of the right hand. There was no documentation of this assessment, or any other assessment, in Mr. Smith's medical record until approximately nine (9) hours later, at 4:30 a.m., when the infiltration of the IV was noted.

Mr. Smith was discharged on September 9, and consulted with a plastic surgeon due to the damage to his right hand because of the infiltration. The condition of his hand worsened and he had plastic surgery on September 21 at the same hospital.

After the surgery, Mr. Smith no order for physical therapy for his hand, and its condition continued to deteriorate.

In June of 2007, Mr. Smith filed a lawsuit against the hospital, alleging he was negligently treated and cared for, which directly lead to the infiltration of the IV containing Propofol, resulting in "severe and permanent" damage to his right hand, right arm, and body.

What about Nurse Jones' conduct? Would you want her named as a defendant in the suit? Why or why not?

Did Nurse Jones meet the applicable standard of care for CCU nurses in the same or similar circumstances in the same or similar community?

What evidence would you want to see/hear in this case before making a decision?

What evidence would you want to see/hear to determine that Mr. Smith met his burden of proof?

What is his burden of proof?

Can you identify any affirmative defenses Ms. Jones could raise in this case?

What verdict would you decide upon in this case? Why?

Stay tuned! The next bulletin will cover what happened in the case and any concerns or comments you submit about this case.

FOOTNOTES

(1) Galvez v. Loma Linda University Medical Center, E047803, California Court of Appeals, 4th District, 2nd Division, filed May 6, 2010 (Not published in National Reporters); A. David Tammelleo (2010), "CA: Did RN Fail to Document or Monitor IV?.....", 51(3) Nursing Law's Regan Report, 3.

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Author:

Nancy Brent