The Nurse and the Law

In a complex court case involving many facets of medical and nursing responsibilities of a hospital in 1953, New York State's highest court stated there was a basis for finding the nurses negligent and the hospital liable.

Here are some excerpts from the court proceedings for the benefit of nurses who can play a critical role in court in such cases.

Twin girls born prematurely were dangerously ill from the moment of their birth. Their paediatrician ordered that they be placed in individual incubators and oxygen be administered at the rate of 6 litres per minute for the first 12 hours, 4 litres per minute thereafter. The situation led to a court case.

At that time many reputable physicians believed a high oxygen environment necessary to sustain life and prevent brain damage in premature infants. There was, however, an increasing amount of evidence that a high oxygen environment, although it might mitigate brain damage, was responsible for retrolental fibroplasia (RLF) and resultant blindness.

Was the physician's order proper ? Did the nurses carry it out properly ? Did the nurses keep proper records ? These were some of the questions which came up for hearing.

There was conflicting and confusing evidence concerning the rate at which the oxygen was administered to the infants. The nurses' notes contained no specific indication that four litres of oxygen were being administered until 31 days after the oxygen therapy was begun, although there were notations establishing 10 occasions in that 31-days period on which six litres per minute were being administered. On behalf of the hospital and the paediatrician, it was asserted that four litres per minute were being given. The explanation for the absence of notations to that effect was that there was a regular practice consistent with what was called in the testimony a "standing order", and there was no need for the nurses to make notations other than to note deviations from the therapeutic course established by the order of the paediatrician.

The court stated very strongly that nurses are bound to follow physicians' orders, except under very special circumstances. If the jury found that six litres per minute of oxygen was administered, and that administration of oxygen at the lower rate after the first 12 hours, as ordered, would have reduced the likelihood of injury, there was a basis for finding the nurses negligent and the hospital liable. Therefore, said the court, the case against the hospital should not have been dismissed by the trial order.

The court said the following in discussing a nurse's responsibility for carrying out medical orders :

...involved here is a situation where the attending physician gives direct and explicit orders to the hospital staff. In such cases, nurses are not authorised to determine for themselves what is a proper course of medical treatment. They may not invade the area of the physician's competence and authority to over-rule his orders. To illustrate, no one would argue that, because at Bellevue oxygen was given, the nurses here might administer it if none had been ordered. Similarly, the nurses could not with impunity fail to give oxygen if directed to do so even if some institutions never used the oxygen therapy for premature infants.

The primary duty of a hospital's nursing staff is to follow the physician's orders, and a hospital is normally protected from tort liability if its staff follows the orders.

There is every reason to encourage the hospital staff to carry out diligently the doctor's orders while there are no countervailing considerations which would justify relieving the hospital from tort liability for failing to do so."

A footnote here gives recognition to an exception :

An exception to the rule would exist where the hospital staff knows that the doctor's orders are so clearly contra-indicated by normal practice that ordinary prudence requires inquiry into the correctness of the orders..,

This is a case that indicates one of the dilemmas of modern medicine which occurs when the standard therapeutic approach is beginning to be seriously questioned, but conclusive studies have not as yet indicated with precision the extent of the risk created by the approach. The case also shows the importance of nurses' notes in litigation and the need to make them fulfil their purpose—to serve as an effective means of communication for the persons engaged in patient care as well as to establish a reliable record of the therapeutic measures taken on behalf of the patients.

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with their beautiful handwork for display.

This was the last we saw of the hospital and left with sad thoughts about these talented young people who were victims of mental diseases.

The same afternoon we visited the Rama Krishna T.B. Sanatorium run by Hindu monks who were very kind to us. One of the monks tok us around and explained in detail their work and pattern of the hospital. Fortunately a thoracoplasty was to be performed which we were able to witness. A pneumoperitoneum was also in session which we observed.

Our return journey was no doubt tiring, but with our minds and hearts in Ranchi we did not feel the strain too much. All good things come to an end, so was our wonderful educational trip to Ranchi.

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