

# Vicarious liability - legal aspects in health care



Running Head: Vicarious Liability – Legal Aspects in Health Care The essence of this paper is to explain the medical concept, vicarious liability; its definition and case, particularly one based on medical negligence in a hospital or health care organization. Vicarious liability extends its arm to Hospitals and health care organizations where in most cases, medical malpractices due to negligence or deliberately by unqualified medical personnel's undoing are witnessed.

### Introduction

In most cases, a person(s), organizations, companies, hospitals or health care providing institutions are held accountable for their employee's wrongdoings. In legal terms, this act is referred to as vicarious liability. It allows for holding an employer responsible for the persons working under their instructions irrespective of whether they are employees or independent contractors, whether they committed the crime intentionally, unintentionally, neglectfully or with criminal oriented intentions. In common knowledge, the boss or an employer, who in other words is the employing authority, should take liability. This is because ideally, the employer has the fattest bank accounts compared to their employees, has the ability to access insurance indemnity and by virtue of the authority bestowed upon it, it can encourage its personnel to use the medical etiquette and ethics professionally. Just as a parent is liable for his/her child's mistake, the medical care organization should take vicarious liability (Devine, 2009)

Lawmedconsultant. com observes that Ellis Memorial hospital, located in Tarpon Springs, Florida was served with two medical lawsuits of professional negligence. Shirley Reth brought two-consolidated lawsuits on behalf of the estate of Reth.

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The suits concerned Sean Reth who had undergone an unsuccessful aesthetic surgery at the hospital in March 2006 but died three days later due to Anesthesia Medical personnel's malpractices, as Reth argued in the summons. This led to insufficient supply of oxygenated blood to the patients' brain, medically referred as cerebral ischemia, along with intra-operative cardiac arrest, in other words, heart attack.

In this case, Anesthetic associates of North Pinellas PA, PA, Teresa catsos CRNA, Hugh Siegel, CRNA together with Glen Syperda, D. O. an Anesthesiologist and the hospital were the defendants. Even if the defendants were not directly employed by the hospital, it was the hospital's responsibility to take the initiative and bear the brunt of the personnel that was working under its instructions. According to Reth the barrister, Mr. Reth's death resulted from neglectful anesthesia care. He claimed that providing non-negligent anesthesia care to patients is the hospital's non-delegable responsibility in spite of who in essence provides that care in their operating room. Consequently, the hospital was vicariously accountable for the performed anesthesia services.

Reth conceded that pursuant to a contract with the Hospital, Anesthesia Associates hired nurse anesthetists and physicians to provide anesthesia services. Reth claimed that in providing anesthesia services to the patient during the surgery, the certified registered nurse anesthetists as well as the anesthesiologist were neglectful, which culminated into his death. He cited Florida Administrative Code Rule 59A-3. 2085(4), Florida Statutes (2005), sections 395. 002(13)(b) and 395. 1055(1)(a), (d), which created an express legal obligation for the Hospital to provide its surgical patients with non-negligent anesthesia services. The jury later on turned down some of the <https://assignbuster.com/vicarious-liability-legal-aspects-in-health-care/>

facts that Reth as an advocate pointed out because he could not establish and sustain supportive and credible evidence to back his claims. For instance, since a qualified medical practitioner supervised the entire operation, he must have certified it with the doctor's academic qualifications and he must have ensured the positive outcome and error free exercise (Lawmedconsultant. com, 2010).

### Conclusion

Vicarious liability is a commonplace terminology in the legal world. Having known what it is and its essence, it is important to conclude that it is good news to those employees or contracted parties that are innocent and it is high time the courts realized that to determine cases of this nature in view of what plight that may befall the employee. After verdicts, employers as well learn on what to do in the future in the event of similar anomalies and become cautious to guard and manage situations beforehand. In this respect, the employers learn to avoid risks especially from those who are susceptible to risk.

### References

Devine, J. (2009): What is Vicarious Liability? Retrieved August 11, 2010 from <http://ezinearticles.com/?What-is-Vicarious-Liability?&id=1932348>

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