

MINUTES

Advisory Committee on Model Civil Jury Instructions

March 10, 2008

4:00 p.m.

Present: Judge William Barrett, Juli Blanch, Francis J. Carney, Marianna Di Paolo, Phil Ferguson, Tracy Fowler, Rich Humpherys, Jonathan Jemming, Gary Johnson, Timothy M. Shea, Pete Summerill, David E. West

Excused: John L. Young, Paul M. Simmons

Mr. Shea conducted the meeting in Mr. Young's absence.

Mr. Fowler commented that the minutes of the February meeting accurately reflected the discussion of Instruction 1056, but the discussion itself contained an error. In the discussion and in the minutes, Mr. Simmons stated that the committee had earlier voted to delete the instruction. Mr. Fowler reported that it was actually a different instruction that the committee had voted to delete.

The committee deferred discussion of Instruction 1057, Safety risks, until the April meeting.

Introductory Committee Note. The committee discussed whether the cases cited in the committee note supported the principles for which they are cited. Mr. Summerill suggested the subcommittee review the note.

CV 301. The committee decided to change the title of the instruction to conform to its content. The committee decided to remove "nurse" because nurses are covered in CV302. The committee decided to leave "in good standing." The committee decided to strike "duties required under the." The committee approved the instruction as amended.

CV 302. The committee decided to amend the title of the instruction and add "in good standing" to parallel CV 301. The committee approved the instruction as amended.

CV 303. The committee added "to the patient" to clarify the danger to whom. The committee approved the instruction as amended.

CV 304. The committee changed "adversely affect [name of plaintiff's] welfare" to "make [name of plaintiff]'s health worse." The committee amended the committee note. The committee approved the instruction as amended.

CV 305. The committee move "reasonably" so that the phrase reads: "could reasonably have been made." The committee approved the instruction as amended.

CV 306. The committee added in brackets "[to the area treated]" since the duty to warn does not extend to injuries generally. The committee approved the instruction as amended.

CV 307. The committee added as item (6) “notify the attending physician of any changes in [name of plaintiff]’s symptoms or condition that would be relevant to a reasonable physician.” The committee bracketed the last paragraph and amended the committee note to instruct the judge to include it only if there is an employment relationship between the hospital and the physician. The committee approved the instruction as amended.

CV 308. With the changes to CV 307, the committee deleted CV 308. Subsequent instructions will be renumbered before publication.

CV 309. The committee changed “is entitled to” to “may.” The committee approved the instruction as amended.

CV 310. The committee amended the committee note and approved the instruction as drafted.

CV 311. The committee inserted in item (6) “that was not consented to.” The committee approved the instruction as amended.

CV 312. The committee added “to the care” to the end of the instruction, made two other minor changes and approved the instruction as amended.

The meeting was adjourned.