



MEMORANDUM IN SUPPORT

**I. Factual and Procedural Background**

This case arises out of the care and treatment provided to Plaintiff's decedent, Daniel Sheffield, during a hospital admission at The Ohio State University Medical Center in June and July of 2012. Mr. Sheffield suffered a massive stroke and multiple seizures due to open air emboli when a nurse that was working at OSU, Paul Gullett, RN, removed a central line venous catheter on July 5, 2012. As set forth in the Complaint, Mr. Gullett was negligent in failing to ensure that Mr. Sheffield was in a proper position both during and after the removal of the central line venous catheter, failing to instruct the patient to hold his breath or bear down during the removal, failing to immediately cover the insertion site upon removal, failing to utilize any ointment or other occlusive dressing to cover the insertion site, and in failing to apply pressure to the insertion site for a sufficient time following removal of the central line venous catheter. (Complaint, ¶9). As a result of the emboli and injuries, Mr. Sheffield suffered severe brain damage, leading to a prolonged hospitalization and his untimely and wrongful death on September 25, 2012. (Complaint, ¶11).

The case at hand was filed on January 8, 2013. The Complaint alleges that Mr. Gullett and others, "in their roles as employees and/or agents" of Defendant OSUMC, were negligent in providing treatment to Plaintiffs' decedent on July 5, 2012. (Complaint, ¶¶4, 10). Throughout the course of litigation, however, defense counsel has indicated that they intend to dispute Mr. Gullett's immunity status based upon a defense that he was an "independent contractor" at the time of the alleged negligence. Documents obtained in discovery have revealed that Mr. Gullett was an agency nurse under the employ of Medical Staffing Options, Inc., retained via contract to provide temporary patient care. (See Exhibit A). Pursuant to the OSUMC Patient Care

Standards of Practice, agency personnel were required “to assume patient care responsibilities in accordance with all OSUMC and Division of Nursing Policies/Procedures/Protocols.” (See Exhibit B).

Given the above, Plaintiffs filed a companion action in the Franklin County Court of Common Pleas on June 5, 2013, naming Medical Staffing Options, Inc. and Mr. Gullett personally as defendants. However, discovery in that case has revealed that the commercial general liability policy held by Medical Staffing Options, Inc. may not provide coverage for acts of medical negligence and/or malpractice.

Regardless of Mr. Gullett’s employment status at the time of the events giving rise to this action, it cannot be denied that OSUMC holds itself out as a provider of medical services in the community, and that Plaintiff’s decedent was looking to OSUMC, and not Mr. Gullett personally, to provide competent nursing and medical care during the time of his admission. As such, pursuant to the Ohio Supreme Court’s decision in *Clark v. Southview Hosp. & Family Health Ctr.*, the doctrine of agency by estoppel should apply in this situation so as to impose liability on the Defendant. *See Clark* (1994), 68 Ohio St.3d 435, 444-45.

## **II. Law and Argument**

Rule 15 (A) of the Ohio Rules of Civil Procedure states that a party may amend his pleading by leave of court, which “shall be freely given when justice so requires.” Civ.R.15 (A). The Ohio Supreme Court has noted that “[t]he spirit of the Civil Rules is the resolution of cases upon their merits, not upon pleading deficiencies.” *Peterson v. Teodosio* (1973), 34 Ohio St.2d 161, 175. “Ohio law endorses a liberal policy toward allowing amendments when the allowance is not being sought in bad faith and it would not cause undue delay or prejudice to the opposing party.” *Barrette v. Lopez* (7th Dist. 1983), 132 Ohio App.3d 406, 410.

This Court has broad discretion to grant or deny leave under the plain language of Civ.R. 15. It should be noted that in this instance, Plaintiffs' seek to amend the Complaint merely out of an abundance of caution and is not seeking to make additional factual allegations that are unrelated to the claims already asserted. Given the liberal "notice pleading" requirements of the Ohio Rules of Civil Procedure, the Complaint already indicates that Plaintiffs intend to hold Defendant liable for the negligent acts and omissions of Paul Gullett, R.N. on July 5, 2012, as "an employee and/or agent" of OSUMC. (See Complaint, ¶¶ 4-10). The First Amended Complaint merely clarifies that this includes agency *by estoppel* in addition to traditional agency/employment principles. Furthermore, discovery remains in its early stages, no delay will result if Plaintiff is granted leave to amend his Complaint, and Defendant will not be prejudiced in its ability to maintain a defense on the merits.

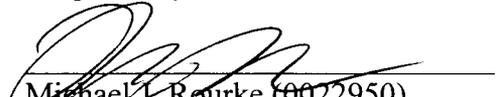
Furthermore, regardless of whether Mr. Gullett was an OSUMC employee or a temporary nurse pursuant to the contract with Medical Staffing Options, he is nonetheless entitled to immunity as an "officer or employee" of the State pursuant to O.R.C. 109.36(A)(1)(b) as "**[a] person that, at the time a cause of action** against the person, partnership, or corporation **[arose, was] rendering** medical, **nursing**, dental, podiatric, optometric, physical therapeutic, psychiatric, or psychological **services pursuant to a personal services contract or purchased service contract with a department, agency, or institution of the state.**"

It cannot be stated that leave to file the First Amended Complaint is being sought "in bad faith" or that any prejudice to the Defendant office would occur in this instance. The issue at hand is strictly legal in nature and requires no additional discovery to take place. Furthermore, Defendants are already aware of the legal questions involved, and the proposed amendment will not cause any undue surprise or prejudice to the defense.

### III. Conclusion

Based on the foregoing, Plaintiffs should be granted leave to file a First Amended Complaint. Given Ohio's liberal policy allowing amendments to pleadings, leave should be granted in this matter "as justice so requires." A copy of Plaintiffs' proposed Amended Complaint is attached hereto as Exhibit C. Also attached as Exhibit D is a proposed entry granting the Motion for Leave contained herein.

Respectfully submitted,



Michael J. Rourke (0022950)  
Robert P. Miller (0073037)  
ROURKE & BLUMENTHAL, LLP  
495 S. High Street, Suite 450  
Columbus, Ohio 43215  
(614) 220-9200 – Telephone  
(614) 220-7900 – Facsimile  
rmiller@randblp.com  
mrourke@randblp.com  
*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was served upon the following counsel of record via ordinary U.S. mail, postage prepaid, this 9<sup>th</sup> day of December, 2013:

Karl Schedler, Esq.  
Daniel Forsythe, Esq.  
Assistant Attorneys General  
Court of Claims Defense Section  
30 East Broad Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215

  
Michael J. Bourke (0022950)



The Ohio State University Medical Center - Division of Nursing  
Agency RN – Orientation Record

Name Paul Cullett

Employee ID# 38032958

Agency Medical Staffing Options

Department/Unit BMT-3<sup>rd</sup> Floor

Nursing License # & Exp. Date 353680 8/31/2013

Orientation Dates \_\_\_\_\_

AHA BLS Expiration Date: 07/2013

AHA ACLS Expiration Date: 03/2013

Credentials Validated By: \_\_\_\_\_

Date: 4/30/12

During this orientation the Agency RN has had the opportunity to learn how to access resources in the hospital; complete assigned computer based learning modules to assess knowledge of OSUMC Hospital Policies & Procedures, documentation systems and new products; nursing skills validation for patient specific needs and has been oriented to the Agency RN role expectations in providing patient care.

The Agency RN has had the opportunity to ask questions of their preceptors and have remediation if needed to further validate skills as appropriate.

NA = Not Applicable to the role that the RN will be in or the patient population for which they would be providing care during their assignment.  
CBL Passing Score = 80% Upon completion of all listed CBLs place copy of transcript in personnel file.

Topic/Content/Skills	Process/Resources	Validation	Date/Initials
OSUMC Standards - Mission, Vision, Values, and Promise	Handout, One Source	Found Reviewed	4/30/12 DH
Compliance <ul style="list-style-type: none"> <li>Confidentiality and Access</li> <li>HIPAA</li> <li>Ethics: Reporting Hotline (gifts, fraud, abuse)</li> </ul>	CBL - Compliance Program CBL - HIPPA Privacy & Security One Source > Compliance > Tools > Ethics Point	CBL Passing Score _____ CBL Passing Score _____	4/30/12 DH
Safety <ul style="list-style-type: none"> <li>Emergency Preparedness</li> <li>Fire Safety</li> <li>Hazard Communications</li> </ul>	CBL - Emergency Preparedness CBL - Fire Safety CBL - Hazard Communications	CBL Passing Score _____ CBL Passing Score _____ CBL Passing Score _____	4/30/12 DH



Agency RN - Orientation - NAME

Paul Gullett

Date

4/30/12

<p><b>OSU Health System Nursing - continued</b>  <b>Medical Model (Services)</b></p> <ul style="list-style-type: none"> <li>• Medical Hierarchy</li> <li>• Interdisciplinary Team</li> </ul> <p>- Nursing Vision          - Corporate Nursing Departments</p> <ul style="list-style-type: none"> <li>• Nursing &amp; Patient Education             <ul style="list-style-type: none"> <li>- Patient Education</li> <li>- Translated Titles</li> <li>- Cultural Reference Tools</li> <li>- Teaching Resources</li> <li>- Diagnostic Tests/Procedures</li> <li>- Diseases &amp; Conditions</li> </ul> </li> <li>• Nursing Marketing &amp; Communications</li> <li>• Nursing Quality             <ul style="list-style-type: none"> <li>- Patient Safety Goals</li> <li>- Event Reporting</li> </ul> </li> <li>• Nursing Informatics</li> <li>• Magnet</li> </ul>	<p>One Source &gt; Policy: Clinical Communication &amp; Conflict Resolution Between Healthcare Team Members</p> <p>Preceptor          One Source &gt; Nursing Web Page &gt; Education &gt; Patient Education</p> <p>One Source &gt; Nursing Web Page</p> <p>One Source &gt; Nursing Web Page &gt; Quality          One Source &gt; Quick Access &gt; Event Reporting          CBL - Using the Event Reporting System          One Source - Nursing Web Page</p>	<p>Found &amp; Reviewed</p> <p>Found &amp; Reviewed</p> <p>Found &amp; Reviewed</p> <p>Found &amp; Reviewed</p> <p>CBL Passing Score _____          Found &amp; Reviewed</p>	<p>4/30/12 DH</p> <p>4/30/12 DH</p> <p>4/30/12 DH</p> <p>4/30/12 DH</p>
<p><b>Agency RN Role</b></p> <ul style="list-style-type: none"> <li>- Position Description</li> <li>- ECG Proficiency Testing - Pass Verified</li> <li>- OSUMC Patient Care Resources</li> <li>- Evaluation Criteria for Performance</li> <li>- Dress Code</li> <li>- Time &amp; Attendance Expectations             <ul style="list-style-type: none"> <li>• Meet with Nurse Manager/AA                 <ul style="list-style-type: none"> <li>- Reporting for Duty</li> <li>- Break/Lunch</li> <li>- Call Off Procedure</li> <li>- Documentation of Time &amp; Attendance</li> </ul> </li> </ul> </li> </ul>	<p>Preceptor          Arranged per Hospital in advance of employment          One Source, Preceptor, Supervisor          Performance Appraisal per Supervisor          One Source &gt; Nursing Web Page &gt; Nursing Policy          Per OSUMC Staffing Office/ Nurse Manager/Administrative Associate</p>	<p>Score _____          Found &amp; Reviewed</p> <p>Found &amp; Reviewed</p>	<p>4/30/12 DH</p>

Agency RN - Orientation - NAME

Paul Gullett

Date

4/30/12

<p><b>Nursing Computer Documentation</b></p> <ul style="list-style-type: none"> <li>- Documentation Policy</li> <li>- <del>Order Entry/Results</del></li> <li>- Medication Reconciliation</li> <li>- Allergies/Latex</li> <li>- Noting Orders - <i>order validation</i></li> <li>- Med/IV Charting - Med. Management/<i>scanning</i></li> <li>- Patient Assessment - Admission &amp; Ongoing</li> <li>- Essentris (if applicable)</li> <li>- IBEX (if applicable)</li> <li>- <del>EPIC Patient Link (if applicable)</del></li> <li>- Glair Via</li> </ul> <p><i>JHS</i></p>	<p>Preceptor <i>K Meheran</i></p> <p>CBL - Medication Reconciliation          CBL - Suicide Risk Assessment          CBL - Signs of Abuse</p>	<p>Demonstrated <i>5/10/12</i> X <i>KM</i></p> <p>CBL Passing Score <u><i>90</i></u>          CBL Passing Score <u><i>92</i></u>          CBL Passing Score _____</p>	
<p><b>Ethics, Rights &amp; Responsibilities</b></p> <ul style="list-style-type: none"> <li>- Patients Rights &amp; Responsibilities</li> <li>- Bio Ethics Committee</li> <li>- End of Life Care</li> <li>- Death Referral Process</li> <li>- Consent/Right to Refuse</li> <li>- Mgmt. of Religious/Ethical Conflicts - Provision of Care</li> <li>- ANA Nursing Bill of Rights and Code of Ethics</li> <li>- Delegation Rules for Nursing</li> </ul>	<p>Preceptor, One Source</p>	<p>Found &amp; Reviewed</p>	<p><i>4/30/12 D4</i></p>
<p><b>Insulin Administration &amp; Resources</b></p> <ul style="list-style-type: none"> <li>- Insulin Pen Administration Principles</li> <li>- OSUMC Diabetes Nursing Resources</li> </ul>	<p>Preceptor <i>K Meheran RN</i>          Preceptor <i>K Meheran RN</i>          Insulin CBLs as indicated</p>	<p>CBL Passing Score _____</p>	<p><i>4/30/12 PG</i></p>
<p><b>Blood &amp; Blood Products</b></p>	<p>One Source &gt; Policy: Transfusion of Blood &amp; Blood Components</p>	<p>Found &amp; Reviewed</p> <p><i>5/14/12</i> <i>KM</i></p>	

Agency RN - Orientation - NAME Paul Cullett

Date 4/30/12

<p><b>Unit Interdisciplinary Services Contact</b></p> <ul style="list-style-type: none"> <li>- Respiratory Therapy</li> <li>- Pharmacy</li> <li>- Social Services</li> <li>- PCRM</li> </ul>	<p>Preceptor <u>K. Meheran RN</u></p>	<p>Demonstrated <u>5/14/12</u>          attends multidisciplinary rounds</p>	<p><u>4/30/12</u>  <u>DH</u></p>
<p><b>Provision of Care, Treatment &amp; Services: Patient Plan of Care</b></p> <ul style="list-style-type: none"> <li>- Unit Expectations &amp; Policy             <ul style="list-style-type: none"> <li>• Rounding - hourly on Pt's</li> <li>• Bedside Report</li> <li>• Multi-disciplinary rounds</li> <li>•</li> <li>•</li> </ul> </li> </ul>	<p>Preceptor <u>K. Meheran RN</u>  <u>daily M-F</u></p>	<p>Demonstrated  <u>5/10/12</u>  <u>5/10/12</u>  <u>5/10/12</u></p>	<p><u>5/10/12</u>  <u>KM</u></p>
<p><b>Unit Specific Equipment</b></p> <ul style="list-style-type: none"> <li>• omni pumps</li> <li>• scale</li> <li>•</li> <li>•</li> </ul>	<p>Preceptor <u>K. Meheran RN</u></p>	<p>Demonstrated  <u>5/6/12</u>  <u>5/10/12</u></p>	<p><u>KM</u>  <u>KM</u></p>
<p><b>Unit Specific Policies/Procedures</b></p> <ul style="list-style-type: none"> <li>• Neurogenic fever policy</li> <li>• Admission navigator/ study labs</li> <li>•</li> <li>•</li> </ul>	<p>Preceptor <u>K. Meheran RN</u>  <u>labs</u></p>	<p>Demonstrated  <u>5/10/12</u>  <u>5/10/12</u></p>	<p><u>KM</u>  <u>KM</u></p>
<p><b>Unit Based Resources</b></p> <ul style="list-style-type: none"> <li>• IHS binder</li> <li>•</li> <li>•</li> <li>•</li> </ul>	<p>Preceptor <u>K. Meheran RN</u></p>	<p>Demonstrated  <u>5/10/12</u></p>	<p><u>KM</u></p>

Agency RN - Orientation - NAME Paul Gullett

Date 4/30/12

**Policies To Review**  
 Agency RN to initial and date after completion

Clinical Communication & Conflict Resolution Between Healthcare Team Members	PG-RN 5/2/12
Intravenous Therapy Policy	PG-RN 5/2/12
Intravascular Access Device	PG-RN 5/2/12
Enteral Tube	PG-RN 5/2/12
List Additional Policies Reviewed Below	

**Additional Agency RN Unit Specific Orientation (as applicable)**

Topic/Content	Learning Options	Outcomes	Date/Signature reviewed by Agency RN	Date/Signature observed by RN Preceptor

**The James Cancer Hospital and Solove Research Institute**  
**James Nursing Orientation Record 2011**

Name: Paul Gullett  
Hospital ID#: 38032858

James Nursing Orientation Dates:

Cost Center #:

Unit: BMT

In the first column below, please fill in the date for the learning opportunities you complete during James Nursing Orientation.

Date	Topic / Content / Skills	Process & Resources	Return Demo
11/30/12	<input checked="" type="checkbox"/> Nursing at the James <input checked="" type="checkbox"/> Professional Development <input checked="" type="checkbox"/> Cancer Modalities & Common Side Effects <input checked="" type="checkbox"/> Magnet Nursing <input checked="" type="checkbox"/> Nursing roles in Clinical Trials <input type="checkbox"/> Palliative Care <input checked="" type="checkbox"/> Survivorship/JamesCare for Life <input type="checkbox"/> Taking the Spiritual Pulse <input checked="" type="checkbox"/> Living with Cancer <input checked="" type="checkbox"/> Patient Education <input checked="" type="checkbox"/> Pharmacy <input checked="" type="checkbox"/> Safe Handling of Hazardous Drugs/Chemo Administration <input checked="" type="checkbox"/> Radiation Safety <input type="checkbox"/> Performance Improvement <input checked="" type="checkbox"/> PCRM/Social Work Role <input type="checkbox"/> RN Role in Billing <input checked="" type="checkbox"/> Bedside Report <input checked="" type="checkbox"/> Skills Demonstrations and Returns	James Nursing Facilitators Expert Content Speakers James Nursing Orientation Manual Lecture/Discussion Skill Demonstrations/Return	<input checked="" type="checkbox"/> CVC Dressing <input checked="" type="checkbox"/> PleurX Drain <input checked="" type="checkbox"/> Mediport Access

James Nursing Orientation Content Facilitator/s: R. Shalby

D. Hupatiga RN Tracy Mjida

*\*Return this form to your Nurse Manager*



Effective Date: 12/03  
Last Review Date: 02/2012  
Approval Signatures on file: \_\_\_\_\_

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UNIVERSITY HOSPITAL/ROSS HOSPITAL/UNIVERSITY HOSPITAL  
EAST, DIVISION OF NURSING SERVICES

OSUMC PATIENT CARE STANDARDS OF PRACTICE

Policy    Procedure    Protocol    Guidelines

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TITLE:    AGENCY PERSONNEL

**DEFINITIONS:**

1. Agency Staff:

Agency personnel refers to nursing personnel utilized to temporarily support patient care. The agency nursing personnel are not employed by the OSU Health System. Only approved agencies, with a written contract, provide either locally-based or nationally-based Per Diem or Long Term Personnel to assist hospital staffing needs on an as needed basis. Agencies are paid by the hospitals according to the OSU/OHA contracted rates. All agency personnel are expected to assume patient care responsibilities in accordance with all OSUMC and Division of Nursing Policies/ Procedures/ Protocols.

2. Shiftwise:

Central staffing Database System with multiple agency participants that are contracted with the OSU Health System to supply supplemental nursing personnel. This Online scheduling Database matches the hospitals needs with staff that have the required skill-set to provide specific patient care.

3. Per-Diem Agency Personnel:

Contracted agency personnel through Shiftwise are scheduled on a shift-by-shift basis. Positions include RN, PCA, and sitters.

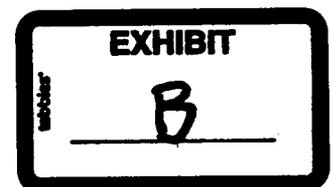
4. Long Term Agency Personnel:

Temporary traveling personnel employed by the agency to provide a contractual assignment for a prescribed length of time. (Usually 13 week assignments)

**AGENCY PERSONNEL POLICY STATEMENTS:**

1. Agency resources are used to supplement staffing when no other means of providing adequate staff are available. Prior to using agency personnel, every attempt should be made to staff the shift with OSUMC regular nursing staff members. No research provides guidance on the impact or effective use of agency/temporary staff. (Level III: A<sup>1</sup>)

- a. The nurse manager is responsible for justifying the initial need and weekly agency usage to their department director.



- b. OSUMC employee who leaves the medical center is required to have a minimum of six months separation before qualifying for a local agency position with OSUMC
  - c. The hospitals assume no responsibility for the treatment of work-related injury or personal illnesses for temporary staff. In the event of a work-related injury, the unit charge nurse should assure that a non-employee accident form is completed.
2. Agency personnel are responsible for completing all assignments and adhering to all policies and procedures of the hospitals and the Division of Nursing.
  3. Agency maintains and updates all nursing staff credentials. through Shiftwise Database. OSUMC Nurse Manager/designee are responsible for verifying these credentials

### **ACQUIRING AGENCY PERSONNEL**

#### **OSU East Hospital**

1. The nurse manager or designee notifies the house supervisor, HAM, indicating the need for a Per-diem, agency personnel The NM secures the long term personnel.
2. All Long Term Agency requests must be pre-approved by the Chief Nursing Officer prior to submission
3. The nurse manager/designee, in collaboration with the AA, places a new order into the Shiftwise Data System specifically to the unit's needs.
4. The Shiftwise Data System matches the nurse manager's needs with available staff with the required skill set. The nurse manager/designee can review potential candidates through the system profiles and then confirms their selection.
5. The primary source licensure verification is reviewed, verified, and placed in the nurses file prior to patient care.
6. For Long Term personnel, The Nurse Manager is responsible to verify that all pre-employment requirements are met prior to patient care. For Per Diem personnel, the house supervisor is responsible to verify pre-employment requirements.

#### **James Cancer Hospital**

1. The inpatient nurse manager or designee notifies the James Nursing Office indicating the need for a Per-diem or Long Term Agency Personnel. All Outpatient staffing needs would be directed to Ambulatory Administration Administrative Assistant.
2. All Long Term Agency Personnel requests must be pre-approved by the COO prior to submission.
3. The inpatient nurse manager or designee places a new order into Shiftwise Data System specifically to the units needs.
4. The Shiftwise Data System matches the nurse manager's needs with available staff with the required skill set. The nurse manager can review potential candidates through the system profiles and confirms the selection.
5. The primary source licensure verification is reviewed, verified, and placed in the nurses file prior to patient care.

6. For Long Term personnel, The Nurse Manager is responsible to verify that all pre-employment requirements are met prior to patient care. For Per Diem personnel, the nursing supervisor is responsible to verify pre-employment requirements.

#### **U.H. & the Ross Heart Hospital**

1. The inpatient nurse manager or designee notifies the Central Staffing Office indicating the need for a Per-diem, or Long Term Agency Personnel.
2. All Long Term Agency Personnel requests must be pre-approved by the Chief Nursing Officer prior to submission.
3. The Central Staff Office, in collaboration with the Unit Manager, places a new order into Shiftwise Data System specifically to the units needs.
4. The Shiftwise Data System matches the nurse manager's needs with available staff with the required skill set. The nurse manager can review potential candidates through the system profiles and confirms the selection.
5. The primary source licensure verification is reviewed, verified, and placed in the nurses file prior to patient care.
6. For Long Term personnel, The Central Staffing Office, on collaboration with the Nurse Manager, is responsible to verify that all pre-employment requirements are met prior to patient care. For Per Diem personnel, the nursing supervisor is responsible to verify pre-employment requirements

#### **PRE EMPLOYMENT REQUIREMENTS**

1. Agency staff must adhere to the OHA/OSU background check requirements by either showing proof of BCI/FBI or completing BCI/FBI at OSU Security Department.
2. Agency staff must adhere to the OHA/OSU health requirements by either showing proof of updated health records, drug screen and vaccinations or clear an OSUMC health physical through Occupational Medicine.
3. Only after the temporary staff has been cleared of both background and health requirements will they be issued an ID badge.
4. At no time should any agency personnel report to a unit without a badge. If they do, they will be sent home immediately and the agency is contacted.
5. If agency personnel are returning to OSUMC, the nurse manager or designee should contact human resources to verify that agency personnel are in good standing with OSUMC.
6. Validation of the Ohio Board of Nursing RN Licensure must be completed by Nurse Manager or designee prior to start of assignment.

#### **ORIENTATION / TRAINING**

##### **Long Term Agency Personnel**

Once new Agency Personnel has been assigned to a unit, they are required to complete department & unit specific orientation as determined by the unit nurse manager or designee.

1. RN Agency Orientation Form (link to OneSource) must be used as a guide to the completion of necessary content for orientation competency
2. It is the responsibility of Department of Nursing Education to upload all necessary CBL's for completion per Hospital Policy.
3. Validation of BLS & ACLS (if pertinent) Certification must be completed during orientation
4. It is not the responsibility of the Hospital to provide BLS & ACLS renewal class to agency personnel. .

**Per-Diem Personnel**

1. Once a new Per-Diem personnel has been assigned to a unit, they are required to receive unit specific orientation.
2. All on-going unit specific training is provided by a unit designee in collaboration with the nurse manager.

**EVALUATION**

1. All Long Term agency personnel will be evaluated upon completion of assignment, annually, or at any time deemed necessary by the hospital.
2. The nurse manager / nursing supervisor, and/or HAM will notify the staffing office and / or appropriate agency in writing, any unacceptable performance, which will lead to individual termination of service.

**REFERENCES**

1. Agency for Healthcare Research and Quality, U.S. Department of Health and Human Services (2007).  
Nurse staffing and quality of patient care. AHRQ Publication No. 07-E005. Retrieved  
02/2012 from [www.ahrq.gov](http://www.ahrq.gov)

APPENDIX A

	<b>Nurse Manager/Designee Role</b>	<b>Competencies/ Orientation</b>	<b>Agency Responsibilities</b>	<b>Scheduling / Cancellation</b>	<b>Evaluation</b>	<b>Personnel Files</b>
<b>SITTER</b>	<ul style="list-style-type: none"> <li>Review orientation and unit specific information</li> </ul>	<ul style="list-style-type: none"> <li>English language skills preferred</li> <li>Unit orientation, environmental,</li> </ul>	<ul style="list-style-type: none"> <li>Health Screening and Background Checks,</li> <li>Match Skill set with Unit Needs,</li> <li>Maintains competencies</li> </ul>	<ul style="list-style-type: none"> <li>All scheduling is conducted through the Shiftwise Data Base system</li> <li>NM/Designee (charge nurse) identifies need to cancel, communicates to Nursing Office/Nurse Supervisor</li> </ul>	<ul style="list-style-type: none"> <li>NM/Designee sent to Central Nursing Office, Nurse Supervisor</li> <li>Immediate feedback R/T unacceptable performance results in termination</li> </ul>	All Files kept within the Shiftwise Staff Profiles
<b>PATIENT CARE ASSISTANT</b>	<ul style="list-style-type: none"> <li>Review orientation and unit competencies.</li> </ul>	<ul style="list-style-type: none"> <li>English language skills preferred</li> <li>Unit orientation, environmental,</li> </ul>	<ul style="list-style-type: none"> <li>Health Screening and Background Checks,</li> <li>Match Skill set with Unit Needs,</li> <li>Maintains competencies</li> </ul>	<ul style="list-style-type: none"> <li>All scheduling is conducted through the Shiftwise Data Base system</li> <li>NM (or designee) identifies need to cancel, communicates to Nursing Office/Nurse Supervisor.</li> </ul>	<ul style="list-style-type: none"> <li>NM or designee sends to Central Nursing Office, Nurse Supervisor</li> <li>Immediate feedback R/T unacceptable performance results in termination</li> </ul>	All Files kept within the Shiftwise Staff Profiles

	<b>Nurse Manager/Designee Role</b>	<b>Competencies/Orientation</b>	<b>Agency Responsibilities</b>	<b>Scheduling / Cancellation</b>	<b>Evaluation</b>	<b>Personnel Files</b>
<b>PER-DIEM NURSING STAFF</b>	<ul style="list-style-type: none"> <li>• Unit Specific Orientation</li> <li>• Provided necessary authorization to unit access/computer/keys</li> <li>• Licensure verification</li> </ul>	<ul style="list-style-type: none"> <li>• Licensed (RN / LPN), department &amp; unit specific orientation.</li> </ul>	<ul style="list-style-type: none"> <li>• Health Screening and Background Checks.</li> <li>• Match Skill set with Unit Needs.</li> <li>• Maintains competencies</li> </ul>	<ul style="list-style-type: none"> <li>• All scheduling is conducted through the Shiftwise Data Base system</li> <li>• NM (or designee) identifies need to cancel, communicates to Nursing Office/Nurse Supervisor</li> </ul>	<ul style="list-style-type: none"> <li>• NM or designee sent to Central Nursing Office, Nurse Supervisor</li> <li>• Immediate feedback R/T unacceptable performance results in termination</li> </ul>	<p>All Files kept within the Shiftwise Staff Profiles</p> <p>NM may keep a file on unit</p>
<b>LONG TERM NURSES</b>	<ul style="list-style-type: none"> <li>• Unit Specific Orientation</li> <li>• Provided necessary authorization to unit access/computer/keys</li> <li>• Licensure verification</li> <li>• Work schedule</li> </ul>	<ul style="list-style-type: none"> <li>• Licensed (RN / LPN), department &amp; unit specific orientation.</li> </ul>	<ul style="list-style-type: none"> <li>• Health Screening and Background Checks.</li> <li>• Match Skill set with Unit Needs.</li> <li>• Maintains competencies</li> </ul>	<ul style="list-style-type: none"> <li>• NM responsible to determine weekly schedule. Worked hours are documented through the Shiftwise Data Base system</li> <li>• NM (or designee) identifies need to cancel, communicates to Nursing Office/Nurse Supervisor</li> </ul>	<ul style="list-style-type: none"> <li>• NM completes at end of each unit assignment</li> </ul>	<p>All Files kept within the Shiftwise Staff Profiles</p> <p>NM may keep a file on unit</p>



behalf of the Estate of Daniel F. Sheffield as a survivorship action under Ohio Revised Code 2305.21.

3. At all times relevant herein, Defendant State of Ohio, by and through The Ohio State University Medical Center (hereinafter “the Defendant”), engaged in the business of providing medical treatment and hospital services for consideration to those in need of medical care.

4. At all times relevant herein, Paul Gullett, RN, and other unidentified physicians, nurses and/or health care providers were officers and/or employees of Defendant pursuant to R.C. 109.36 and were involved in the care and treatment of Plaintiff’s decedent Daniel Sheffield.

5. Pursuant to Ohio Civ.R. 10(D), the Affidavits of Merit of Dan Gzesh, M.D. and Carolyn Cassutt, R.N. are attached hereto.

**FIRST CLAIM FOR RELIEF – MEDICAL NEGLIGENCE AND SURVIVORSHIP**

6. Plaintiffs hereby incorporate paragraphs one through five of this Complaint as if fully restated herein.

7. At all times relevant herein, there existed a professional medical relationship between Plaintiff Daniel Sheffield and the Defendant, by and through its agents and employees, with all the rights, duties and obligations attendant thereto.

8. On or about June 14, 2012, Plaintiff’s decedent Daniel Sheffield was admitted to The Ohio State University Medical Center to be treated for an infection. A central line venous catheter was placed while he was in the emergency room prior to being transferred to the ICU, where he remained until being transferred to the MICU unit approximately one week later.

9. On or about July 5, 2012, Paul Gullett, RN, an officer and/or employee of Defendant pursuant to R.C. 109.36, and in course and scope of said employment, was negligent

in removing the central line venous catheter. Said negligence includes, but is not necessarily limited to, failing to ensure that Mr. Sheffield was in a proper position both during and after the removal of the central line venous catheter, failing to instruct the patient to hold his breath or bear down during the removal, failing to immediately cover the insertion site upon removal, failing to utilize any ointment or other occlusive dressing to cover the insertion site, and in failing to apply pressure to the insertion site for a sufficient time following removal of the central line venous catheter. Paul Gullett, RN was negligent in other respects as well.

10. The medical care and treatment provided by Defendant, by and through its employees and/or agents, including Paul Gullett, RN, was performed in a negligent and unskillful manner in that they failed to exercise the degree of skill and care an ordinarily prudent nurse and/or other health care provider would have exercised under like or similar circumstances.

11. As a direct and proximate result of the negligence described above, Plaintiff's decedent suffered an open air embolism shortly following the removal of the central line venous catheter on July 5, 2012, leading to a massive stroke and three seizures. As a direct and proximate result of the negligence described above and the resulting stroke, Plaintiff's decedent endured severe pain and suffering, anxiety, emotional distress, disability, loss of enjoyment of life, and ultimately a premature and wrongful death on September 25, 2012.

12. As a direct and proximate result of the negligence described above and the resulting stroke, Plaintiff's decedent and his Estate incurred substantial medical expenses for the treatment of his condition until his premature and wrongful death on September 25, 2012.

**SECOND CLAIM FOR RELIEF – NEGLIGENT TRAINING AND SUPERVISION**

13. Plaintiffs hereby incorporate paragraphs one through twelve of this Complaint as if fully restated herein.

14. At all times relevant herein, Defendant The Ohio State University Medical Center was negligent in failing to properly train, instruct, and or otherwise supervise its employee nurses and other working at OSU Medical Center as to the proper procedure and protocols to be utilized when removing a patient's central line venous catheter.

15. As a direct and proximate result of the negligence of Defendant The Ohio State University Medical Center, Plaintiff's decedent suffered an open air embolism shortly following the removal of the central line venous catheter on July 5, 2012, leading to a massive stroke and three seizures and the resulting damages described herein.

**THIRD CLAIM FOR RELIEF – LOSS OF CONSORTIUM**

16. Plaintiffs hereby incorporate paragraphs one through fifteen of this Complaint as if fully restated herein.

17. At all times relevant herein, Plaintiff Yong Hui Sheffield was the wife of Daniel Sheffield. As a direct and proximate result of the negligence of Defendant described above, Plaintiff Yong Hui Sheffield suffered a loss of the society, support, services and consortium of her husband until his premature and wrongful death on September 25, 2012.

18. At all times relevant herein, Plaintiff Amber Sheffield was the daughter of Daniel Sheffield. As a direct and proximate result of the negligence of Defendant described above, Plaintiff Amber Sheffield suffered a loss of the society, support, services and consortium of her father until his premature and wrongful death on September 25, 2012.

19. As a direct and proximate result of the negligence as set forth above, Plaintiffs Yong Hui Sheffield and Amber Sheffield provided reasonable and necessary care and services for Plaintiff's decedent prior to his premature and wrongful death on September 25, 2012.

Pursuant to *Hutchings v. Childress* (2008), 119 Ohio St.3d 486, Plaintiffs Yong Hui Sheffield and Amber Sheffield are entitled to be compensated for the value of their services in this regard.

**FOURTH CLAIM FOR RELIEF – AGENCY BY ESTOPPEL**

20. Plaintiffs hereby incorporate paragraphs one through nineteen of this Complaint as if fully restated herein.

21. At all times relevant herein, Defendant The Ohio State University Medical Center held itself out to the public as a provider of medical services. They specifically made available to Plaintiff's decedent Daniel Sheffield medical services when he was in need of medical care and treatment in a hospital setting.

22. Plaintiff's decedent Daniel Sheffield relied on Defendant The Ohio State University Medical Center to provide necessary and proper medical services, including nursing care, during his June 14, 2012 and at the time of the subject incident on July 5, 2012. Further, Plaintiff's decedent had the right to assume and expect that said nursing services were being provided by employees and/or agents of the hospital, thereby creating an agency by estoppel. *See Clark v. Southview Hosp. & Family Health Ctr.*, 68 Ohio St.3d 425 (1994).

**FIFTH CLAIM FOR RELIEF – WRONGFUL DEATH**

23. Plaintiffs hereby incorporate paragraphs one through twenty-two of this Complaint as if fully restated herein.

24. As a direct and proximate result of the negligence of Defendant as set forth above, the Estate of Plaintiff's decedent Daniel Sheffield has incurred medical, funeral and burial expenses.

25. As a direct and proximate result of the negligence of Defendant as set forth above, Daniel Sheffield's survivors, including his wife Yong Hui Sheffield, his daughter Amber

Sheffield, as well as all other next of kin, have suffered the loss of his society, support, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training and education, and have suffered extreme mental anguish and grief, and have been otherwise damaged since his premature and wrongful death on September 25, 2012. As such, his survivors and next of kin are entitled to compensation in an amount reasonable and proper to commensurate with their losses as set forth herein. Decedent's wrongful death beneficiaries further suffered and incurred all other damages contemplated by Ohio Revised Code Chapter 2125.

**WHEREFORE**, Plaintiffs hereby demand judgment against the Defendant for compensatory damages in an amount in excess of Twenty-Five Thousand Dollars (\$25,000), plus interest, pre-judgment interest as determined by law, their costs herein expended, and any other relief this Court deems just and proper.

Respectfully submitted,

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Robert P. Miller (0073037)  
Michael J. Rourke (0022950)  
ROURKE & BLUMENTHAL, LLP  
495 S. High Street, Suite 450  
Columbus, Ohio 43215  
(614) 220-9200 – Telephone  
(614) 220-7900 – Facsimile  
rmiller@randbllp.com  
mrourke@randbllp.com  
*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was served upon the following counsel of record via ordinary U.S. mail, postage prepaid, this \_\_\_\_ day of November, 2013:

Karl Schedler, Esq.  
Daniel Forsythe, Esq.  
Assistant Attorneys General  
Court of Claims Defense Section  
30 East Broad Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215

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Robert P. Miller (0073037)

