

APPENDIX 3-1

734 So.2d 589
24 Fla. L. Weekly D1421

BEVERLY ENTERPRISES-FLORIDA, INC., etc., Petitioner,
v.
Bonnie OLVERA, Respondent.

No. 99-354.

District Court of Appeal of Florida,
Fifth District.
June 18, 1999.

George F. Indest, III and Sheila Ramaswamy, of Unger, Swartwood, Latham & Indest, P.A., Orlando, for Petitioner.

Melvin B. Wright of Morgan, Colling & Gilbert, P.A., Orlando, for Respondent.

PER CURIAM.

Beverly Enterprises-Florida, Inc., d/b/a Longwood Health Care Center (Longwood), requests certiorari review of an interlocutory order compelling discovery of notes prepared by Longwood's director of nursing regarding a hip fracture sustained by Bonnie Olvera as she was being transferred from her bed to a wheelchair. The nursing director took notes and prepared an incident report during investigation of the injury. The notes were taken as part of an internal investigation of the incident and as part of a risk management investigation. The notes were not made a part of the incident report but were kept in a folder with statements on all other risk management investigations.

We conclude that the notes were prepared in anticipation of possible litigation and are privileged and protected unless Olvera can show a need for them and can establish an inability to obtain equivalent materials without undue hardship. See, Alachua General Hospital v. Zimmer, USA, Inc., 403 So.2d 1087 (Fla. 1st DCA 1981) (an investigator cannot be required, in a discovery deposition, to reveal, the contents of communications prepared in anticipation of litigation or reports relating to circumstances of incident or investigation thereof, absent proof of need and inability to obtain the materials without undue hardship).

We grant Longwood's petition, issue the writ and quash the order compelling production of the nursing director's notes.

PETITION GRANTED; WRIT ISSUED.

W. SHARP, PETERSON and ANTOON, JJ., concur.