

EMTALA: No Violation Seen In Screening Of Pediatric Patient.

The mother took her six year-old son to the emergency room because he had been complaining of pain in his left leg since suffering a fall six days earlier.

On arrival a nurse performed immediate triage which included vital signs and assessment of his pain as ten on the one-to-ten Wong-Baker face scale.

A board certified emergency physician examined the boy. He noted contusions on both hips.

The physician ordered lab tests which showed an elevated white count and a CT of the lower extremities and pelvis which showed subcutaneous contusions and hematoma/seroma on the right hip.

The physician diagnosed contusions and discharged the patient with Tylenol with codeine and instructions to follow up with his pediatrician.

The next day the parents took the boy to the emergency room at another hospital. A bacterial infection was suspected and he was admitted for antibiotics.

He stayed at that hospital six weeks with a MRSA infection. Treatment included several surgeries. He has been left with permanent bone damage.

The parents sued the first hospital claiming it should have admitted the boy, started antibiotics at once and transferred him to a specialized pediatric center.

No EMTALA Violation

The US District Court for the Northern District of Texas found no violation of the US Emergency Medical Treatment and Active Labor Act (EMTALA).

Although the parents had no medical insurance, the first hospital nevertheless provided a medical screening appropriate for a pediatric patient with a history of and physical signs consistent with injury from a recent fall, the Court ruled.

The nurse triaged him right away. The physician spent more than fifteen minutes examining him, found no neuro, cardio or respiratory problems, ordered and reviewed a number of lab tests and discussed the CT he ordered with a radiologist.

The boy appeared to be medically stable in all respects when the emergency physician discharged him from the first hospital. **Fewins v. CHS**, ___ F. Supp. 3d ___, 2016 WL 302317 (N.D. Tex., January 25, 2016).

It is a violation of the US Emergency Medical Treatment and Active Labor Act (EMTALA) to screen an emergency department patient less fully and diligently than others who seem to be suffering with the same signs and symptoms.

In this case the patient's attorneys were granted access to redacted medical records from the hospital for several other emergency department patients who presented with leg pain but were actually admitted to the hospital for more extensive diagnostic workups.

However, none of their circumstances were similar enough to this patient's to warrant a court ruling that this patient was given an emergency medical screening examination deficient in comparison with others.

The other patients were adults ranging in age from fifty-nine to eighty-one who had no histories or outward signs of recent lower extremity trauma to explain their pain.

The patients held up for comparison all had relatively complicated pre-existing histories pointing to the possibility their pain could be a symptom of a serious systemic problem.

UNITED STATES DISTRICT COURT
TEXAS

January 25, 2016

Patient Suicide Attempt: Court Judgment For The Patient.

The father brought his sixteen year-old son to the emergency room after he discovered that the boy had ingested almost fifty pills that were missing from the family's locked medication cabinet and had deeply cut his own wrist.

The boy had been struggling with depression and suicidal ideation.

The psychiatrist's assessment was that the boy was a danger to himself. He was not able to contract for his own safety.

High suicide precautions were ordered, which meant constant staff visual observation except when in the bathroom.

When he was alone in the bathroom staff were to stand by and communicate at least every thirty seconds.

The last progress note was at 6:00 p.m. from a nurse who got a commitment from him to talk to staff if he was feeling unsafe or wanted to hurt himself.

At 9:55 p.m. he was allowed to go to the bathroom but was left alone. At 10:15 p.m. he was found having hanged himself in the bathroom with his scrub pants. He was revived after an estimated fifteen to twenty minutes without a pulse and now has a permanent anoxic brain injury.

By accepting a suicidal patient in its inpatient psychiatric unit the hospital agreed to prevent the patient from suffering harm as a result of his own suicidal impulses.

The hospital cannot raise the patient's own conduct as a defense to liability.

SUPREME COURT OF COLORADO
January 25, 2016

The Supreme Court of Colorado ruled out the patient's own comparative negligence as a defense and ruled in favor of the patient and against the hospital. **P.W. v. Children's**, ___ P. 3d ___, 2016 WL 297287 (Colo., January 25, 2016).