

Skin Care: Court Sees No Departure From The Nursing Standard Of Care.

When she was admitted to the nursing home the eighty-year-old patient was incontinent of urine and had a bruise on her left buttock.

The physician's orders were to clean and reposition her every two hours.

The nurses closely monitored the patient and reported her worsening condition to the physician on a regular basis.

After her buttocks lesion progressed to Stage IV the physician finally sent her to the hospital. From there she was sent to a hospice where she passed away. The cause of death was listed as failure to thrive.

The nursing home's nurses kept the treating physician informed that the patient's gluteal pressure lesion was getting worse.

The lesion progressed from Stage II to Stage IV over a two week period before the physician ordered changes in the treatments.

UNITED STATES DISTRICT COURT
MISSISSIPPI
September 9, 2013

The US District Court for the Southern District of Mississippi dismissed the lawsuit the family filed against the nursing home.

The theory behind the family's lawsuit was that the treating physician should have included antibiotic ointment in the treatment plan and that doing so would have halted or at least postponed the progression of the patient's skin lesion.

Even if that was true, the Court ruled, there was no departure by the nursing home's nurses from the nursing standard of care. The nurses carefully monitored and meticulously recorded the progression of the lesion, reported it to the physician and carried out all of the physician's orders. ***Scott v. Manhattan Nursing***, 2013 WL 4804840 (S.D. Miss., September 9, 2013).

Autopsy: Court Says Nurse Fraudulently Obtained Consent.

The widow does not have to prove that the medical examiner's autopsy or a full hospital autopsy with toxicology would have shown that an overdose killed her husband, possible grounds for her to sue the hospital.

Her psychiatrist said she went through a complicated bereavement due to hospital employees' actions.

The charge nurse intentionally misinformed her that the medical examiner would not accept the case and misled her to believe that the hospital's own autopsy would nevertheless pinpoint the real cause of death.

Post-mortem fraud can be grounds for a case against a healthcare provider if:

The provider made a statement to a family member that was false;

The provider knew the statement was false or made the statement recklessly as a positive assertion without knowledge that it was actually true;

The provider intended to influence the family member to act upon the statement; and

The family member actually and reasonably relied upon the provider's statement and thereby suffered some form of harm.

COURT OF APPEALS OF TEXAS
August 29, 2013

The sixty-one year-old med/surg patient died unexpectedly in the hospital.

His chart showed he was given Demerol and Phenergan at 3:30 a.m., closely watched by the nurses for fifteen minutes and then checked twice after that.

However, the phlebotomist who found him unresponsive at 5:15 a.m. testified she was by told by a nurse leaving the room at 5:00 a.m. with a syringe in her hand to come back in a few minutes because he had just been medicated.

The physician who responded to the code wanted to order a complete autopsy but he had never ordered an autopsy before and was confused about how to do it.

The director of acute services cautioned the widow that an autopsy by a private pathologist would be very expensive and urged the widow just to let the hospital take care of everything.

Charge Nurse Said Medical Examiner Would Not Take the Case

The day shift charge nurse expressly told the widow that the county medical examiner would not take the case because the patient died from renal failure. The charge nurse got the widow to sign a form allowing the hospital to send the remains to an affiliated hospital for an autopsy.

The charge nurse did not explain the widow's option for a complete autopsy which would include toxicology as opposed to a limited autopsy which did not.

The autopsy that was done did not include drawing of fluids for toxicology and the court record was unable to account for certain fluids that actually were drawn by a conscientious lab tech at the first hospital that day. The autopsy concluded that the patient died from renal carcinoma.

Widow Can Sue Hospital For Post-Mortem Fraud

The Court of Appeals of Texas affirmed the jury's verdict against the hospital for \$1,000,000 for the widow's mental anguish plus over \$200,000 in interest.

An additional \$1,000,000 for the widow for punitive damages was reduced by the judge to \$750,000 to comply with Texas's statutory limit on such damages in medical malpractice cases. ***Christus v. Carswell***, __ S.W. 3d __, 2013 WL 4602388 (Tex. App., August 29, 2013).