

## Skilled Nursing Admission: Family Member Had No Authority To Agree To Arbitration.

The elderly patient was transferred on four separate occasions from the hospital to a skilled nursing facility.

Each time the paperwork was completed outside the patient's presence by a certain family member and representatives of the facility. Each set of papers included an arbitration agreement.

After he died the family sued the facility. The Court of Appeals of Kentucky ruled against the nursing home's insistence that the case go into arbitration rather than jury trial in the local county court.

### Durable Power of Attorney

The patient's durable power of attorney actually named as his attorney-in-fact the family member who signed for him.

However, a durable power of attorney only confers authority on the named individual to enter into binding contracts on the patient's behalf after the patient has become no longer capable of making his or her own decisions. There was no evidence this patient had yet reached that stage, so the power of attorney was not yet effective. **Kindred Hosp. v. Clark**, 2013 WL 593883 (Ky. App., February 15, 2013).

## Dehydration, Sepsis: Court Sees Grounds For Family's Lawsuit.

**To monitor a patient properly for dehydration there must be adequate measurement of fluid intake and urinary output.**

**However, there was no quantitative record in the chart of this patient's fluid intake or urine output.**

**The nursing home staff knew or should have known that this patient had many risk factors for dehydration.**

**Dehydration poses a risk of urinary tract infection and further risk of sepsis.**

**There was no documentation of the deterioration of the patient's condition which resulted in her hospitalization near death, or that the family or the physician were notified of her change in status.**

**Lack of documentation points to an overall failure to care for the patient competently.**

COURT OF APPEALS OF TEXAS  
December 14, 2012

After only five days in the nursing home the patient had to be sent to the hospital, where almost three liters of fluid was drained from her bladder via a urinary catheter.

She died the next day from cardiopulmonary failure due to septic shock from a urinary tract infection.

The family's medical expert was highly critical of the care she had received in the nursing home. The Court of Appeals of Texas ruled that the family's expert's report stated valid grounds for a lawsuit.

The initial assessment failed to mention her significant cardiac history and advanced renal disease. Renal insufficiency placed her at high risk for dehydration. Advanced age and dementia were other risk factors for dehydration.

A patient with these risk factors for dehydration needs to be offered and encouraged to take fluids.

The facility must record clinical information in the chart to show that the patient's condition is being monitored.

Absent was any documentation of fluid intake and urinary elimination.

There was no documentation of the deterioration of the patient's condition for several days before she had to be transferred to the hospital, or that the family or physician were notified of her change in health status.

Dehydration can contribute to a urinary tract infection which can lead to sepsis, septic shock and death in a frail elderly person, as the family's expert stated in this case. **MSHC v. Miller**, \_\_ S.W. 3d \_\_, 2012 WL 6218001 (Tex. App., December 14, 2012).

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