LEGAL EAGLE EYE NEWSLETTER

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Patient Chokes, Dies: Nurse Ruled Negligent, Delegated Supervision Of Patient To Aide.

The eighty-four year-old patient was admitted to the hospital by his long-time primary care physician because he was complaining of not feeling well.

Once he was settled into his hospital room around 10:00 p.m. a nurses aide came in, left him a sandwich on his tray table and exited the room.

The patient's roommate heard the elderly man choking and used his own call button to summon a nurse.

A code was called. The patient was intubated. Remnants of a turkey sandwich were suctioned from his trachea and lungs before he died.

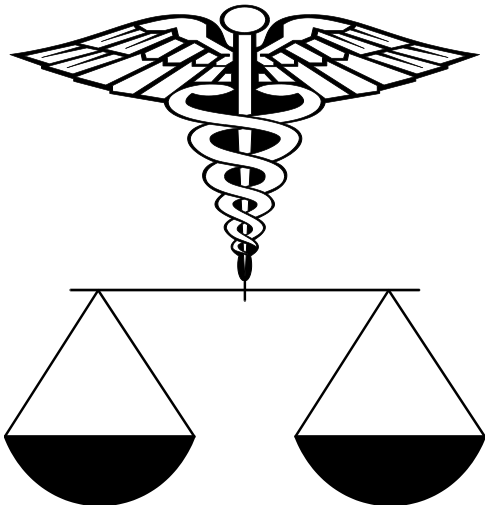
The family privately hired a pathologist to perform an autopsy. The autopsy confirmed aspiration of food as the cause of the cardiopulmonary arrest that killed the patient.

The family's lawsuit resulted in a $500,000 verdict in their favor against the hospital. The verdict was upheld by the Appellate Court of Illinois.

Nursing Standard of Care

The Court endorsed the family's nursing expert's testimony as correctly stating the nursing standard of care.

The patient's primary-care physician, who knew the patient well, alerted the nurse admitting the patient that the patient had dysphagia, a swallowing disorder, and gave instructions to watch the patient closely while he ate.



The nurse delegated the task of supervising the patient's eating to an aide without determining that the aide was qualified for that task.

Before a nurse may delegate any care task to an aide, it is the nurse's responsibility to determine that the task is appropriate for performance by an aide and by the particular aide selected to perform it.

APPELLATE COURT OF ILLINOIS
November 24, 2009

Having been so instructed by the patient's physician, the patient's nurse had a professional responsibility either to watch the patient herself as he ate or to delegate the task of supervising the patient only to a non-licensed person known by the nurse to appreciate the patient-safety risk involved if the patient was not closely supervised and also known to be able to respond in an emergency by calling for assistance and performing the Heimlich maneuver.

In general, it is a nursing responsibility to manage the care of a patient whose hands-on care is being performed by non-licensed nurses aides.

If a patient is known to have a swallowing disorder, a nurse can delegate the task of feeding the patient to an aide only after assessing the aide's level of knowledge, training and experience and only after determining that the aide is qualified to perform the task.

A nurses aide acts under the nurse's direct supervision when performing supportive care such as bathing and feeding the patient.

Violation of the standard of care for a care-giving task by a non-licensed aide is also a violation of the standard of care by the professional nurse responsible for supervising the aide. **Estate of Travaglini v. Ingalls Health, __ N.E. 2d __, 2009 WL 4432565 (Ill. App., November 24, 2009).**

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