

# LEGAL EAGLE EYE NEWSLETTER

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## Diabetic Patient: Court Validates Wrongful Death Lawsuit Against Nursing Facility.

The patient was admitted to the nursing facility for rehab following knee surgery.

She had a history of diabetes, rheumatoid arthritis, hypertension and a recent urinary tract infection.

The day after admission her blood sugar was 283 but the nurses did not call her attending physician. Two days later her nurse charted a blood sugar of 295 and notified the physician but did not obtain orders what to do about it. After another two days her blood sugar was 370, she was incoherent and lethargic and had a temp of 103.3° F.

Two days later a nurse found her nonresponsive with no pulse or respirations. She was taken to a hospital where she died.

The autopsy related the death to pericardial infection from a port-a-cath which before her hospitalization for the knee surgery had been implanted for central venous access, which the nurses apparently had neglected.

The patient's son filed a wrongful death lawsuit on behalf of the family. The allegations were that the nurses failed to assess, monitor and communicate her health status to her physician, her care team and her family. The Court of Appeals of Tennessee upheld the lawsuit.



***The patient's blood sugar rose from 283 to 295 to 370 without the nurses obtaining orders from the physician.***

***The patient became increasingly lethargic, then unresponsive with no pulse or respiration and was taken to the hospital where she died from a pericardial infection.***

***The family can sue for wrongful death.***

COURT OF APPEALS OF TENNESSEE  
September 24, 2004

### Statute of Limitations

#### Civil Wrongful Death Lawsuits

The court ruled that the statute of limitations, the strict legal deadline for filing a lawsuit against caregivers for wrongful death of a patient, does not start to run when the patient dies.

Instead, the legal system gives the family a certain amount of time after such a tragic event to gather pertinent information about the circumstances before deciding whether to go ahead with a lawsuit. The court ruled Tennessee's one-year statute should be applied to the date when a copy of the autopsy report first became available to the patient's son. It was not transcribed until more than two months after his mother's death.

Each US state's legislature decides the number of years for the statute of limitations for each type of case. Most state courts' interpretations of the law include a "discovery rule" to give patients and family members some leeway. The statute of limitations to take legal action generally starts to run on the date the patient or family discovered or reasonably should have discovered grounds for a suit, not necessarily when harm to the patient occurred. [Puckett v. Life Care of America, 2004 WL 2138337 \(Tenn. App., September 24, 2004\).](#)

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