

Flu Vaccine: Court Throws Out Lawsuit Against School Nurse.

A fifth-grader was given the H1-N1 vaccine by the school nurse despite the fact he presented to the nurse a signed permission slip from his mother indicating that his mother did not consent to him receiving the vaccine.

Most of the children were given the vaccine by nasal mist. Because this child had asthma the nurse elected to give the vaccine by injection. Being asthmatic, the child faced grave risks to his health if he got the flu, but at the same time, due to his asthma, nasal-mist administration of the vaccine was not suitable for him.

It was not clear from the court record whether the school nurse interpreted the mother's withholding of consent as pertaining only to the nasal mist which most of the children were getting which was not appropriate for her asthmatic child, or if the mother did not want her child to be vaccinated in any manner whatsoever, but the nurse went ahead anyway.

Even if the school nurse went ahead over the mother's refusal to consent to this necessary and minimally-invasive procedure, the facts do not plausibly amount to a violation of the mother's or the child's Constitutional rights.

UNITED STATES COURT OF APPEALS
EIGHTH CIRCUIT
November 2, 2012

The US Court of Appeals for the Eighth Circuit (Missouri) threw out the mother's lawsuit which alleged violation of hers and her son's Constitutional rights.

The Court noted that a lawsuit for violation of a citizen's Constitutional rights requires unconscionable behavior by a governmental official and this nurse's exercise of her own judgment did not fit that bill. B.A.B. Jr. v. Bd. of Educ. of St. Louis, ___ F. 3d ___, 2012 WL 5373367 (8th Cir., November 2, 2012).

Fall, Fatal Head Injury: Court Finds Nursing Negligence.

The family's nursing expert stated that this patient represented a very high fall risk, particularly after the administration of Ativan, which has potential side effects of dizziness, drowsiness, disorientation and unsteadiness.

After the patient was found to have sustained a second fall, in the hospital, in addition to the one he sustained at home, there was no documentation to be found in the chart to support the care that had been given to the patient on the med/surg floor.

Failure to accurately and intelligently assess and document a patient's health status, including signs, symptoms and responses to nursing care, is a breach of the standard of care.

The nursing documentation does not contain a fall assessment of this patient after he arrived on the med/surg floor. An assessment at that time would have included the administration of Ativan, which would not have been part of the initial fall assessment in the E.R.

The failure to conduct a second fall assessment on the med/surg floor taking into account the effects of his medication is a breach of the standard of care.

COURT OF APPEALS OF TEXAS
November 14, 2012

The ninety year-old patient was brought to the emergency room after experiencing a temporary loss of consciousness after a fall at home.

A head CT scan in the E.R. showed no evidence of intracranial head trauma.

The patient was given IV morphine and IV Ativan, admitted to the hospital and transferred to a med/surg floor.

About an hour after arrival on the med/surg floor the patient fell again. Because he was not being closely monitored by the nurses the fall could only be estimated to have occurred sometime between 3:30 a.m. and 4:30 a.m.

A second head CT showed a right frontal subarachnoid hemorrhage and frontal scalp hematoma. He was sent by ambulance to a trauma center and placed on life support but soon died.

Nursing Negligence No Nursing Assessment After Morphine / Ativan

The Court of Appeals of Texas ruled the family's expert witnesses, a physician board-certified in geriatric medicine and an RN with a background in hospital care of elderly patients, correctly formulated the applicable standard of care.

The physician laid the groundwork by pointing out that morphine and Ativan can lead to falls in frail elderly patients through lowering of the blood pressure and clouding of their mental faculties.

The standard of care requires close monitoring by hospital staff after giving such medications to frail elderly patients. There was no medical or nursing documentation of the need for close monitoring by a nurse or assignment of a sitter. In fact, the patient was simply left alone in his room.

The family's nursing expert's opinion was that a second nursing assessment was required after the patient arrived from the E.R. on the med/surg floor.

The second assessment would have taken into account that the he had just been given two IV medications which could increase his already considerable fall risk. The second assessment would have led to fall precautions such as close monitoring or assignment of a sitter. Peterson Reg. Med. Ctr. v. O'Connell, ___ S.W. 3d ___, 2012 WL 5503895 (Tex. App., November 14, 2012).