

Hospice Negligence Liability

The patient went to an osteopath for headaches, neck pain and ringing in the ears. The osteopath ordered an MRI. Based on the MRI, the osteopath told the patient he had a terminal, inoperable brain tumor and would die within six months. He encouraged the patient to go into a hospice, and the patient complied.

Two months into his stay at the hospice the patient was hospitalized for abdominal complications and died. On autopsy no brain tumor could be found, operable or inoperable. Nor was any other terminal condition detected.

Another physician reviewed the MRI films and concluded the films had been misread, as no brain tumor was evident there to have been seen.

The family sued the hospice for wrongful death. The Court of Appeals of Texas faulted the hospice for administering large doses of narcotics to the patient for

Hospice care is appropriate only for terminally ill patients with less than six months to live.

Hospice care is compassionate and palliative, not curative, focusing on the physical, psychosocial and spiritual symptoms of terminal illness.

Hospice drug therapy may be ordered without consideration of potential damage to vital organ systems, due to the patient's limited life expectancy.

COURT OF APPEALS OF TEXAS, 1999.

pain management, even though it was accepted standard procedure in the hospice for staff nurses to follow such orders from the hospice's medical director without consideration of the effect the medication would have on a healthy patient.

The court put the blame squarely on the hospice's medical director for ordering narcotic palliative care without obtaining a competent second medical opinion corroborating the patient's terminal condition. He apparently just signed off on the patient's osteopath's conclusions without further investigation.

The court praised the compassionate aims of hospice care and approved the use of large doses of narcotics in terminal pain management, doses that would harm a healthy person, assuming the hospice patient has been verified to have an imminently terminal condition. **Fenley v. Hospice in the Pines**, 4 S.W. 3d 476 (Tex. App., 1999).