

## Nurse's Med Error, Patient Falls: No Proof Seen That Negligence Caused Brain Hemorrhage.

The elderly patient entered the hospital to have colon cancer surgery. While he was in the hospital his physician also wanted to get a CT scan to aid in diagnosis of the patient's bouts of mental confusion.

While being placed on the gurney to go to radiology for the CT scan he fell and hit his head. He was taken to radiology anyway, and his CT scan was normal.

Back in his room, a nurse gave him a bolus of heparin, following a standard hospital protocol to boost his blood levels, but going against his physician's orders, after his Coumadin had been stopped for the colon cancer surgery. He had been on Coumadin more than 20 years.

His PPT rose to a panic level, then slowly subsided to normal. Then the heparin was changed to Lovenox. Soon after that he died from a brain hemorrhage.

### Damages For Pain And Suffering No Verdict For Wrongful Death

The jury awarded \$18,000 damages against the hospital for the radiology tech's negligence in allowing the patient to fall from the gurney during transfer.

However, the medical testimony was inconclusive that the head injury from the fall or the nursing error in giving a bolus rather than a slow drip of heparin in any way caused his fatal brain hemorrhage.

The Court of Appeal of Louisiana, in approving the jury's limited verdict, pointed to the fact he had been on anticoagulants for some years, was having bouts of confusion which could have been caused by cerebral vascular insufficiency, and had to have plaque removed from his carotid arteries before the doctors would be willing to go ahead with the colon cancer surgery.

With such a complex pre-existing history there is no presumption that an accident produced an injury which showed up after the fact, the court said. Desselle v. Jefferson Parish Hosp. Dist., \_\_\_ So. 2d \_\_\_, 2004 WL 2291554 (La. App., October 12, 2004).

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***In personal injury lawsuits the law presumes that a disabling medical condition resulted from an accident:***

***If the injured person was in good health prior to the accident; and***

***The disabling condition manifested itself shortly after the accident; and***

***The medical evidence indicates that there is a reasonable possibility of a cause-and-effect relationship between the accident and the disabling condition.***

***That is hardly the case here. The trial judge did not err in refusing to instruct the jury as to any such legal presumption. This is a case where the patient's family must prove cause-and-effect.***

***True, there was a nursing error, giving an IV bolus of heparin to a patient whose Coumadin had just been stopped (so he could undergo surgery), and the patient fell off a gurney and struck his head (CT normal less than an hour later.)***

***However, given his dire medical history, neither of these events was behind his fatal brain hemorrhage some five days later.***

COURT OF APPEAL OF LOUISIANA  
October 12, 2004

## Lyme Disease: Diagnosis Missed, Court Finds Nurse Practitioner Not Negligent.

The parents brought their two year-old to the doctor's office. He was seen by a nurse practitioner.

He had a body rash, fever, diarrhea, decreased appetite and fatigue.

The nurse practitioner's diagnosis was dermatitis for which she recommended the mother buy and use an over-the-counter topical antihistamine. Two days later when that did not seem to be working the nurse practitioner prescribed a prescription-strength topical antihistamine.

After three months of no improvement the parents took the child to an emergency room where the ER physician ordered tests which showed Lyme disease antibodies in his blood. They went back to the same physician for whom the nurse practitioner worked and he started him on an oral antibiotic. They took him to other physicians who changed the antibiotics. The jury ruled the nurse practitioner not liable on

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***The patient's lawyers did not correctly raise their objection to the argument that the child's later health problems were complications related to another physician's substitution of antibiotics.***

SUPREME COURT OF CONNECTICUT  
October 12, 2004

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the grounds that the boy's health complications were side effects of the antibiotics other physicians gave him later. The Supreme Court of Connecticut declined to disturb the jury's ruling. Tetreault v. Eslick, 271 Conn. 466, \_\_\_ A. 2d \_\_\_, 2004 WL 2210185 (Conn., October 12, 2004).