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Nurse's Medication Error: Hospital Admits Nurse Was At Fault, Jury Finds No Liability.

The patient came to the E.R. for an allergic reaction to acetaminophen with codeine she had taken earlier that day for pain from a dental procedure.

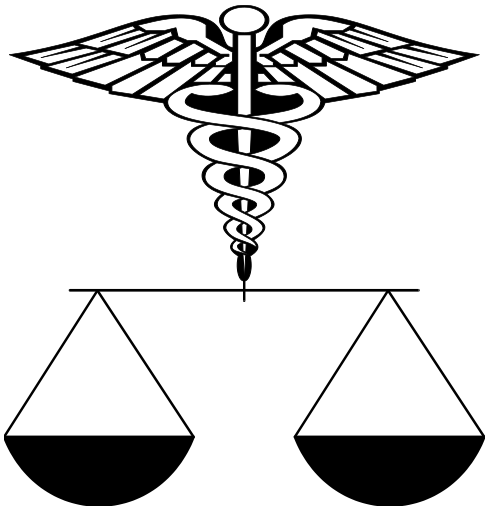
The E.R. physician ordered three medications, two to be given by the E.R. nurse intravenously and a third, epinephrine, to be given subcutaneously.

The E.R. nurse erroneously gave all three medications IV. The patient immediately sat up, put her hands on her chest, said that her heart was palpitating and then became pale, nauseous and anxious, cried out in pain and vomited.

The nurse quickly realized the patient's reaction was caused by the epinephrine taking effect too rapidly due to her own mistake giving it IV.

The nurse alerted the E.R. physician, candidly explained what happened and had the patient transferred to the ICU. The nurse completed the necessary risk-management reports before leaving at the end of her work shift.

During the patient's week-long stay in the ICU the E.R. physician and various people from hospital administration and risk management spoke with her. They frankly admitted to the patient and to her family that a mistake had been made. The family's attorney was present at some times.



The hospital admitted the nurse's giving epinephrine intravenously rather than subcutaneously was a violation of the standard of care.

However, no hospital staff member ever admitted to the patient or testified in court that any harm continued after the patient was discharged from the ICU where she was taken after the incident.

COURT OF APPEALS OF UTAH
February 21, 2014

After being discharged from the hospital the patient came back six times to the same hospital's E.R. Full assessments and various cardiac and neurological testing never found anything but an unrelated kidney infection.

Almost a year later the patient filed a lawsuit against the hospital for $5.7 million for anoxic brain damage, cardiac damage, thoracic outlet syndrome, headaches, depression, anxiety, cognitive defects and neck, shoulder and back pain, all allegedly caused by the E.R. nurse's erroneous administration of the epinephrine IV rather than sub q.

The hospital admitted liability in the lawsuit, that is, a formal stipulation was filed in court that the nurse's error fell below the standard of care.

On the issue of causation, however, the hospital brought in a neurologist, neuropsychologist, cardiologist and others to testify as experts that the patient suffered no permanent sequelae caused by the nurse's error.

The Court of Appeals of Utah affirmed the jury's defense verdict in favor of the hospital.

The patient challenged the jury's verdict on the grounds that the verdict was improperly influenced by the district court trial judge's decision to keep

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Nurse's Medication Error: No Liability (Continued).

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from the jury's attention statements by the hospital's risk manager and administrator to the effect that the patient should not worry, that everything would be taken care of and she could return to the hospital if she needed.

The family was told the patient had been "given the best room in the house" and that the specialists at the hospital were going to give her the best care possible. One physician went so far as to say they were sorry the hospital "messed up" and there were complications.

The Court ruled, however, that any statements by hospital employees which could be interpreted as admissions of fault were irrelevant because the hospital formally admitted fault at trial.

None of the Hospital's Statements Admitted Any Complications Were Caused by the Nurse's Error

None of the statements by hospital personnel the patient claimed the jury should have heard could be interpreted as an opinion on the issue whether any permanent residual harm to the patient was caused by the nurse's error.

Whether there were permanent residual complications was the only issue for the jury, and the jury decided that issue in the negative based on the overwhelming expert medical testimony from the treating and consulting physicians.

An adjuster from the hospital's insurer assured the family that the hospital would not bill the patient for her care in the ICU, but even though the hospital was at fault, there would nevertheless be no payment made for anything which could not be related to the E.R. nurse's error.

Offers to pay for medical expenses, apologies, expressions of sympathy and explanations of the events which led to an unexpected outcome are expressly excluded from a court trial by the legal rules of evidence.

The hospital benefited by admitting liability while preserving the issue of causation of damages for the trial. All hospital staff who interacted with the patient were on board with that plan from the start. **Lawrence v. Mountainstar, __ P. 3d __, 2014 WL 685594 (Utah App., February 21, 2014).**

The hospital formally admitted to the court that the nurse's administration of epinephrine intravenously rather than subcutaneously was a violation of the standard of care.

However, the hospital never conceded that the nurse's error caused any lingering harm after the patient was discharged from the ICU where she was taken after the incident, in its admission to the court or when staff interacted with the patient.

That made any statements irrelevant and inadmissible by hospital personnel even if they could be interpreted as admissions of fault.

Statements by facility personnel are not admissible against a healthcare facility that apologize for what happened or express sympathy, commiseration, condolence or compassion, which describe the sequence of events which led up to an unanticipated outcome or even which offer to furnish or to pay for medical, hospital or other expenses resulting from an injury.

It is a fine line, because offering her the option to return to the E.R. might imply that something is still wrong for which she might need to come back.

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Sudden Cardiac Death: Nurses Ruled Not At Fault.

The patient had an apparent cardiac event at home involving chest pain radiating into his left arm accompanied by diaphoresis and shortness of breath.

He phoned a clinic asking for a next-day appointment, telling the nurse he was having pain and numbness in both his arms and wrists which he believed was caused by computer use at work.

The next day when he came into the clinic he told a nurse he had had chest pain in the past but none recently. Then at the same visit he saw a nurse practitioner and told her basically the same thing. The nurse practitioner did an EKG and got a chest x-ray, which appeared normal.

The day after that he collapsed at work and was taken to an E.R. Cardiac catheterization was unsuccessful and he died.

The nurses met the standard of care.

The charting for his phone call and for his visit to the clinic clearly reflect the patient's responses to a series of questions aimed at determining why he wanted to be seen.

He did not report chest pain at the time or any recent episode of chest pain.

UNITED STATES DISTRICT COURT
WEST VIRGINIA
February 20, 2014

The US District Court for the Southern District of West Virginia ruled the nurses were not at fault.

The chart showed that the nurses carefully documented their inquiries into the man's symptoms that were specifically targeted at ruling out a cardiac event.

With the information repeatedly given to them by the patient there was no basis for the nurses to direct the patient to an emergency room for immediate cardiac evaluation and treatment. They could not be held responsible for his death. **Wade v. US, 2014 WL 670849 (S.D. W.Va., February 20, 2014).**