

Lower Extremity Arterial Occlusion, Ischemia: Nursing Home Nursing Staff Should Have Reported Changes To Physician, Court Says.

The resident was sixty-nine years old when she came to the nursing home after hip replacement surgery.

She suffered from depression and often complained of pain all over her body.

Nurses Noted Impaired Circulation

Four and one-half months after admission staff nurses noted her right lower leg was swollen and shiny. The problem worsened over the next two weeks. The nurses continued to document that her feet were dark in color, her right great toe was purplish and that she was complaining of severe pain. The nurses did not report the condition to a physician.

The family called an ambulance when they visited and saw her foot was discolored and heard her complain. She went to the hospital for popliteal to tibialis arterial bypass surgery, which failed. Her right leg was amputated below the knee two days after surgery. Then she had a heart attack. She died eighteen months later. Her physicians related the heart attack to the physiologic stress of the amputation surgery.

The Court of Appeal of Louisiana ruled there were grounds for the resident to sue and for the family to continue the lawsuit as her heirs after her death.

Nursing Negligence

The nurses were ruled negligent for not calling a physician about her impaired circulation even though it was worsening and obviously required immediate medical attention.

The court conceded that arterial bypass surgery is often unsuccessful. However, the court was satisfied with the doctor's testimony that there was a twenty-percent greater chance of saving the leg if the surgery had been done a week earlier. **Short v. Plantation Management Corporation**, 781 So. 2d 46 (La. App., 2000).

The state's Nursing Home Residents' Bill of Rights gives a nursing home resident the right to sue a nursing home for harm caused by substandard care.

Residents can sue on their own or through a guardian.

What happens when a nursing home resident files suit and then dies? Does the family inherit the right to continue the lawsuit and collect the damages?

The rights set out by the Legislature in the Residents' Bill of Rights are not just the one resident's rights, they are the rights of all nursing home residents.

The purpose of the law is to preserve the dignity and personal integrity of nursing home residents and safeguard against encroachments upon their right to self-determination.

Violation of the Nursing Home Residents' Bill of Rights is an offense against the public interest.

The family inherits this resident's court case and can go forward with it.

COURT OF APPEAL OF LOUISIANA, 2000.

No Interpreter For Deaf Patient: Court Lets Suit Go Forward.

A deaf patient spent almost ninety days in the hospital for respiratory failure, tracheal separation and pneumonia. She died in the hospital from anoxic brain injury due to suffocation.

After she died her mother sued the hospital for failing to provide a sign-language interpreter to her deaf daughter, despite the mother's numerous requests and the fact that impaired communication was high on the problem list derived from the hospital's own assessments.

The Rehabilitation Act requires any recipient of Federal funds to provide appropriate auxiliary aids to persons with impaired sensory skills to afford such persons an equal opportunity to benefit from the services.

Auxiliary aids can include sign-language interpreters for deaf hospital patients.

UNITED STATES DISTRICT COURT,
MARYLAND, 2001.

Since the hospital received Medicare and Medicaid funding it was subject to the Rehabilitation Act.

The US District Court for the District of Maryland let the suit stand, with certain conditions. The mother had no right to sue for intentional infliction of emotional distress, whether or not her daughter experienced emotional distress undergoing medical interventions with no explanation or chance to consent, as the hospital had no intention to inflict emotional distress.

Quality of Care Compromised?

However, if the jury found the patient's death from suffocation could be traced to inadequate means to communicate, the hospital would be liable. **Estate of Alcalde v. Deaton Specialty Hospital Home, Inc.**, 133 F. Supp. 2d 702 (D. Md., 2001).