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Premature Newborn Kept Alive, Parents' Lawsuit Against Hospital Thrown Out.

The mother was admitted to the hospital with symptoms of premature labor. An ultrasound was done. The fetus was estimated to weigh 629 grams and to have a gestational age of twenty-three weeks.

The parents were told that if the child was born alive there would be severe impairments related to prematurity. The parents requested that no life-sustaining measures be taken. Their obstetrician noted their wishes in the hospital chart.

A hospital neonatologist told the nursing staff that no neonatologist was to be summoned for the birth. The baby was going to be allowed to expire.

However, a different neonatologist was on duty when the baby was born. As the child was born alive and weighed more than 500 grams, he believed there was a legal and moral duty to take steps to keep the baby alive.

The child did survive, but with severe developmental disabilities.

The parents sued the hospital. They claimed it was wrong to treat their child without their consent, wrong to have a policy mandating that 500+ gram infants be kept alive and wrong not to have a policy requiring physicians to follow the parents' wishes in this situation.



Parents have the right to control their children's medical care as a general rule.

However, a parent cannot refuse life-sustaining treatment for a child unless the child has been medically certified as terminally ill.

Until then, care providers have no legal obligation to follow the parents' orders to withhold urgently needed treatment for the child.

COURT OF APPEALS OF TEXAS, 2000.

A civil jury awarded more than \$60,000,000 to the parents from the hospital for past and future medical expenses for the baby, punitive damages and interest.

The hospital appealed to the Court of Appeals of Texas, which threw out the jury's verdict and vindicated the hospital and its staff.

In making its ruling the court reviewed the general principles of law that apply in these situations.

Parents' Consent

Parents have the right to consent to their children's medical care. That is the general rule in effect when care is not urgently needed and not necessary to sustain the child's life.

Unless the child's need for treatment is too urgent for a parent or legal guardian to be contacted and asked to give consent, parental consent must be obtained before treatment can be given, or the healthcare provider faces potential legal liability for going ahead.

That is the same basic rule that applies to adult patients. A healthcare provider has a defense to a lawsuit for going ahead with treatment if and only if there was an emergency, meaning the adult patient was not conscious or not lucid and no family member was avail-

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