

Skilled Nursing: Court Finds Violations Of Regulations, Upholds Penalties.

The US Court of Appeals for the Fourth Circuit upheld civil monetary penalties imposed on a skilled nursing facility for violations of patient-care standards.

Failure to Assess/Monitor Significant Changes in Patient's Condition

A sixty-nine year-old patient suffered from a seizure disorder, dementia, agitation and depression. He was highly agitated at breakfast time. His CNA measured his BP as 190/120. The nurse called the physician, who ordered Valium which the nurse gave at 10:15 a.m.

For the rest of the day he was looked in upon and always seemed to be sleeping, not unusual for a patient recently given Valium.

The nurses found him unresponsive at 8:45 p.m. He was rushed to the hospital where he died several hours later. He had been in a hyperosmolar coma with cerebral edema which led to fatal brainstem herniation.

The facility was faulted for not trying to wake him regularly and take his vital signs during the ten and one-half hours after he got the Valium, a violation of at least three separate Federal regulations, the court said.

Failure to Provide Pharmaceutical Services

A patient needed to wear an airway mask at night for sleep apnea. For more than five years his a.m. routine had been to be awakened and given Cafergot for the headaches he often had.

The night nurse woke him as usual but gave him Darvocet instead of Cafergot because they were out of Cafergot. In report she told the day nurse that she needed to order some more Cafergot. The day nurse did not get around to it until 10:00 a.m. or 11:00 a.m. and the medication did not arrive on the unit until after 4:30 p.m.

By the time he got his Cafergot at 5:00 p.m. the patient's headache pain had become so severe they were giving him Ultram and Darvocet.

According to the Court, Darvocet is not a substitute for Cafergot. It is substandard nursing practice to substitute a non-equivalent medication. There was a courier service on-call for the nurses to obtain urgently needed medications, but the nurses did not use it. That was a violation of Federal regulations requiring nursing facilities to provide pharmaceutical services sufficient to meet residents' needs. Universal Healthcare v. US Dept. of Health and Human Services, 2010 WL 325961 (4th Cir., January 29, 2010).