

## Asthmatic Patient: Emergency Department Nurse Not At Fault.

The patient's son called paramedics after his mother, a long-time asthma sufferer, could not stop wheezing and gasping for air even with the use of two different inhalers. The paramedics transported her to the hospital.

The emergency department nurse met the ambulance on arrival and began the process of emergency care. The patient could no longer speak but was still responsive. The nurse realized it was a respiratory emergency which required immediate attention by the emergency department physician. The nurse notified the emergency department physician immediately.

When the patient became unresponsive the emergency department physician told a fourth-year emergency-medicine resident physician to intubate the patient.

The patient vomited as the resident attempted to intubate her. The resident took five minutes to suction the airway, then tried again and could not intubate. The emergency department physician returned and tried to intubate the patient. Then he called for an anesthesiologist who had more experience with difficult intubations. However, the anesthesiologist was also unable to intubate the patient.

Almost twenty-five minutes after the patient first arrived an airway was established by means of a surgical incision in the trachea.

By this time the patient had suffered irreversible brain damage from lack of oxygen. Life support was stopped three days later and she died.

### **Nurse Ruled Not At Fault**

The Appellate Court of Illinois ruled the emergency department nurse was not at fault. The nurse immediately assessed the patient, recognized the seriousness and urgency of her situation and alerted the emergency physician what was going on.

The \$4 million verdict against the hospital was nevertheless allowed to stand, not because the nurse, a hospital employee, was negligent, but because the patient would have seen the emergency department physician, in fact an independent contractor, as a hospital employee despite the legal disclaimers in the admission paperwork. **Fragogiannis v. Sisters**, 2015 IL App. (1st) 141788 (December 31, 2015).

***There is no evidence to support the family's allegations of negligence against the emergency department nurse.***

***It was the nurse's responsibility to assess the situation, realize that the patient needed help immediately and call for help.***

***The emergency department physician acknowledged that he was notified immediately when the patient arrived. He testified he had been with the patient three minutes already when he ordered blood gases at 1:50 p.m.***

***The nurse's first note was at 1:52 p.m., stating that the physician was at the bedside with the patient.***

***Even if it actually took five minutes after the patient's arrival before the physician first saw her, that does not mean that the nurse did not fulfill her legal duty to alert the physician immediately when the patient arrived in life-threatening respiratory distress.***

***In any case, there is no conclusive evidence that if the resident and other physicians had started a few minutes sooner trying unsuccessfully for twenty minutes to intubate the patient that that would have prevented her death.***

APPELLATE COURT OF ILLINOIS  
December 31, 2015

## Stroke Symptoms: Court Sees Signs Of Nursing Negligence.

The patient had been in the hospital two weeks suffering from pneumonia. She was smoker, had COPD and was on medications for hypertension.

A CT scan at 6:00 p.m. showed the patient had had an hemorrhagic stroke. A neurologist took over her care and the next morning surgery was done to resect her intracranial hematoma. The patient was left with serious neurologic deficits.

Earlier that same afternoon at 2:45 p.m., according to the family, the patient complained of having a pounding headache and seeing "psychedelic" colors.

At 3:00 p.m. her nurse phoned the physician for an order for Tylenol for the headache. The nurse had no progress note or personal recollection of a complaint of a pounding headache or visual disturbance.

However, at 6:30 p.m. the charge nurse wrote a progress note that the patient's bedside nurse had phoned the physician at 3:00 p.m. and asked if he wanted to order a CT scan but he said he did not.

***The hospital is not entitled to dismissal of this lawsuit.***

***The evidence is disputed, but the patient's and family's version of events would tend to point a finger of blame at the nurses.***

NEW YORK SUPREME COURT  
APPELLATE DIVISION  
January 14, 2016

The New York Supreme Court, Appellate Division, ruled that if the nurse did not recognize that a pounding headache and a visual anomaly could be symptoms of a stroke and did not report that as such to the physician, that would be a violation of the standard of care by the nurse.

Earlier intervention to reduce her blood pressure and stop the bleeding in her brain could have improved the patient's chances for a more favorable outcome. **Randall v. Kingston**, \_\_ N.Y.S.3d \_\_, 2016 WL 155539 (N.Y. App., January 14, 2016).