

## Bacterial Meningitis: Jury Rules Nurse And Physician Misjudged Condition.

The initial impression was that the patient, a thirty-five year-old developmentally disabled woman living in a group home, died from an unwitnessed seizure.

If true, that would have made her a prime candidate for organ donation. A local organ bank contacted the patient's attending physician. The physician told them that she had been suffering from viral cold symptoms and that she had had an elevated CBC, but a second CBC right before her death was normal.

However, the autopsy showed she died from bacterial meningitis related to *Strep pneumoniae*.

The patient's parents sued the group home and the physician. The jury held the group home 20% at fault and the physician 80% at fault. They should have found out the patient had a serious bacterial infection potentially treatable with antibiotics, not a viral illness. The Supreme Court of Tennessee did not uphold the verdict, only because the amount of damages awarded was too small.

### Charting After The Fact

#### Proven With Handwriting Expert

There were numerous phone message slips generated as the nurse and other staff at the group home informed the physician of the progression of the patient's illness.

However, a handwriting expert hired by the parents' lawyers testified some of the message slips were created after the fact just like some entries in the chart.

The handwriting expert noted that some entries on the same page actually made different impressions due to different materials being underneath when they were written, that is, they were not made on the same dates as indicated.

The staff were trying to create the impression they had fully advised the physician and had reported the CBC results, which were lost apparently with no one appreciating their importance. Rothstein v. Orange Grove Center, Inc., 60 S.W. 3d 807 (Tenn., 2001).

***The patient was a thirty-five year-old retarded adult living in a group home. Right before her death the staff placed her alone in a darkened room to see if that would calm her agitation and cause her breathing difficulties to subside.***

***The autopsy revealed the patient died from bacterial meningitis caused by *Strep pneumoniae*.***

***It had been assumed it was a viral infection that would not have responded to antibiotics.***

***For the group home the legal question was when and how thoroughly the signs and symptoms were reported to the physician and what exactly happened to the results of the CBC's the physician ordered.***

***As the signs of the patient's illness progressed, the nurse at the group home and other staff were in contact with the physician by phone.***

***A lot of phone message slips were generated which came in as evidence at the trial. However, some of the phone messages and chart notes actually were written after the fact.***

SUPREME COURT OF TENNESSEE, 2001.

## Consent Forms: Nurses Took On The Physician's Responsibility.

It was a very complex medical malpractice lawsuit. The jury found the patient's physicians liable but did not find the hospital liable.

The patient appealed the jury's verdict. The US Court of Appeals for the Sixth Circuit upheld the patient's appeal and ordered a new trial.

***Making sure the patient has given truly informed consent for a specific surgical procedure is the surgeon's responsibility.***

***If the surgeon is not a hospital employee, the hospital is not liable if the surgeon does not fully inform the patient what to expect and what the alternatives were.***

***However, if a nurse takes on the task of explaining the procedure, the possible complications and the available alternatives, the nurse and the nurse's employer are open to a lawsuit after the fact for lack of informed consent.***

UNITED STATES COURT OF APPEALS,  
SIXTH CIRCUIT, 2002.

The Court of Appeals ruled the judge should have instructed the jury to consider whether or not the hospital's nurses gave inadequate explanations to the patient before his surgeries such that his consent was not truly informed consent.

By taking on this task, normally the physician's responsibility, the nurses exposed the hospital to potential liability. Rogers v. T.J. Samson Community Hospital, 276 F. 3d 228 (6th Cir., 2002).