

Cardiac Stress Testing: Court Looks At The Standard Of Care.

The medical center advertised in the local newspaper that its healthy heart symposium would be held at a local hotel on a Saturday morning.

A nurse practitioner would be providing free heart screenings between 8:00 a.m. and 11:00 a.m. to participants who pre-registered.

The heart screening included a basic test of cardiovascular fitness which involved having the participant step up and down from a fourteen-inch block for three minutes in synch with a metronome.

One of the participants became fatigued two minutes into the step test, lost her balance, fell and fractured her wrist. She sued the medical center for negligence.

Her lawsuit alleged negligence in the fact the step block was placed too close to a wall, which did not allow the participant to balance himself or herself naturally by leaning forward while stepping up and down.

The lawsuit also alleged negligence in that she was not medically screened beforehand and basically left alone during the step test without being closely observed for signs that the testing should be stopped in the interests of patient safety.

The Court of Appeals of Texas agreed with the patient that the American College of Sports Medicine's *Guidelines for Exercise Testing and Prescription* are an authoritative source and that the allegations raised in her lawsuit made good common sense. However, the Court had to dismiss the lawsuit.

Exercise testing involves professional judgment. Pre-screening and observing the participant during a cardio step test must be done by a healthcare professional, like a nurse or nurse practitioner, who has the necessary professional competence.

A lawsuit alleging a lapse in professional judgment or a departure from the professional standard of care, in Texas as in most US jurisdictions, requires testimony from an expert witness.

Making a plausible common-sense argument and attaching a copy of the pertinent *Guidelines* to the court papers is not legally sufficient, the Court ruled. **Covenant Health v. Barnett**, __ S.W. 3d __, 2011 WL 1832754 (Tex. App., May 13, 2011).

The American College of Sports Medicine's Guidelines for Exercise Testing and Prescription are an authoritative source.

The Guidelines require the person conducting an exercise stress test to clear the participant beforehand for risk factors commonly associated with coronary artery disease.

During the stress test the participant is to be observed and the testing stopped if the participant develops angina or angina-like symptoms, a significant drop or rise in blood pressure, light-headedness, confusion, ataxia, pallor, cyanosis, nausea, cold or clammy skin, failure of the heart rate to increase with exercise intensity, physical or verbal manifestations of severe fatigue or unusual or severe shortness of breath.

The Guidelines anticipate that the person conducting the test will possess sufficient medical competence to evaluate the test participant and make the medical judgments necessary to initiate and continue testing.

That involves an exercise of professional judgment. A lawsuit alleging a lapse in professional judgment requires expert testimony to support the case.

COURT OF APPEALS OF TEXAS
May 13, 2011