

Choking: Nursing Home Staff Ruled Not Liable For Patient's Death.

The patient, only in her late thirties, had to be admitted to a nursing home following a severe stroke. She was known to suffer from dysphagia and hemiparesis as *sequelae* of her stroke.

The patient refused to eat her meals in the dining room under staff supervision, even after being warned repeatedly of the risks involved in eating alone in her room.

The family also kept bringing in solid foods which were not appropriate, at the patient's request, despite the fact the patient was being provided a soft mechanical diet per the doctor's orders by the nursing facility's dietary department.

Nevertheless, nursing home staff routinely made it a point to check on her while she was eating alone in her room.

One day during the lunch hour she was found unresponsive. Staff immediately did the Heimlich maneuver to remove a piece of bread stuck in her airway, then suctioned her, while emergency paramedics who had been called were on their way to take her to the hospital.

The nursing supervisor on duty at the time reportedly checked the call button right afterward, found it was fully functional and made note of that fact on the incident report she wrote up and submitted to the state department of health.

The patient was intubated at the hospital for twenty-four days, then weaned from the ventilator. Being a lifelong smoker who refused to quit, she needed a tracheostomy through which to breathe and had to come back to the hospital more than fifty times for tracheostomy emergencies and surgical revisions.

The jury in the Superior Court, Middlesex County, Massachusetts returned a defense verdict in favor of the nursing facility. The jury was reportedly influenced by a continuing history of patient non-compliance long after the events in question and by doubts that the choking episode at the nursing home was a factor in her death five years later. **Sisko v. Sunbridge Healthcare, 2009 WL 5416520 (Sup. Ct. Middlesex Co., Massachusetts, August 11, 2009).**