

Corrections Nursing: Nursing Negligence Leads To Verdict For Deceased Inmate's Family.

The suspect was arrested on narcotics charges and booked into the county jail. A physician performed an admitting exam which was unremarkable except for a slightly elevated pulse.

The inmate told the physician he used drugs so the physician prescribed medication to ease his withdrawal symptoms.

Six days later the inmate banged on the glass-enclosed station where the guards sat and gestured that he needed medical help by drawing an "M" in the air with his finger. Then he laid down and crossed his arms over his stomach while another inmate continued trying to get the guards' attention. After eight hours they went to his cell and took him to the infirmary.

Although by the next day he had been in jail seven days he told the nurses he was still kicking a drug habit. He was kept in the infirmary, but the nurses on duty did basically nothing for him but allow him to lie on a cot. At the end of the shift the nurse did not check on him or write anything in his chart or report anything to the nurse coming on duty.

Throughout the night the nurse on duty had minimal contact with him and the next morning she did not try to get a doctor to see him as he requested. Later that morning an inmate working in the infirmary told the nurse the inmate was unresponsive. CPR was not successful and the inmate was pronounced dead.

Autopsy Results

Perforated Ulcer, Peritonitis

The autopsy revealed an ulcer had perforated at least 24 hours before his death and signs of widespread infection.

The Superior Court of New Jersey, Appellate Division pointed to testimony from experts who testified for the family that heroin withdrawal was an unlikely explanation for his symptoms six days into his incarceration. Jail nurses would know that even without medication drug withdrawal symptoms peak within three days. The experts also testified the patient's ordeal would have produced excruciating pain for him to have to endure. Williams v. Hudson County, 2011 WL 4008016 (N.J. App., September 12, 2011).

The inmate patient's condition could have been easily detected and his death prevented had a proper examination of his abdomen been conducted and his fluctuating vital signs recorded, or if he had been sent to the hospital for a CT scan after he fell down and began to display an alteration in mental status.

The jail nurses failed to properly assess the inmate's condition, failed to objectively rule out an inappropriate diagnosis (heroin withdrawal), failed to document his symptoms and vital signs, failed to communicate with each other regarding the inmate's condition and needs, failed to contact the doctor and failed to send the inmate to the hospital.

The jail nurses were totally insensitive to the inmate's condition and essentially rendered no medical care whatsoever for him.

The inmate must have experienced excruciating pain as his condition worsened.

The jury awarded his family \$600,000 for negligence, \$225,000 for violation of his civil rights and \$319,152 for attorney fees and costs.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
September 12, 2011

Sonogram Gel On The Floor: Patient Slipped And Fell.

A court decision has been reversed which we reported in June 2010: *Sonogram Gel On The Floor: Patient Slipped And Fell*, Legal Eagle Eye Newsletter for the Nursing Profession, (18)6, Jun. '10, p. 4.

In the process of doing a bladder scan a nurse somehow allowed some of the lubricating gel to get on the floor of the patient's hospital room.

The patient was injured when he got up to use the restroom and slipped and fell due to the presence of the gel on the floor.

The Court of Appeals of Texas ruled in May 2010 that the patient's lawsuit against the hospital could go forward without expert testimony.

That court said it would be common knowledge to any lay person sitting on a jury that a nurse should not let the lubricating gel get on the floor while doing a scan procedure, the risk being a safety hazard that could cause the patient to fall.

The patient's case should have been dismissed at the level of the trial court for failure to file an expert's report, as is required in Texas and in many other states.

SUPREME COURT OF TEXAS
August 26, 2011

The Supreme Court of Texas reversed the decision of the Court of Appeals without ruling one way or the other whether the nurse was negligent.

The Supreme Court believed the nurse wore gloves during the procedure, took them off, dropped one or both on the floor, then picked them up leaving a certain amount of the lubricating gel on the floor.

The technical legal issue in this case is the standard of care for a nurse, and for a hospital in setting standards for its nurses, for the removal and disposal of gloves worn during a medical procedure, a question that requires expert testimony. St. David's Healthcare v. Exparza, __ S.W. 3d __, 2011 WL 3797685 (Tex., August 26, 2011).