

Deep Vein Thrombosis: Court Rules Patient's Nurses Met The Legal Standard Of Care.

The patient collapsed and died from blood clots in his lungs from deep vein thrombosis shortly after returning home from a three-day hospital stay.

Despite the tragic outcome the Court of Appeal of Louisiana upheld a jury verdict in favor of the hospital, finding that the patient's nurses met the legal standard of care in all respects.

The patient's ENT physician admitted him for sinus surgery. Because of complications he had to be kept in the hospital two extra days for observation for fever and infection, antibiotics and bed rest.

The patient's physician did not believe his patient was at risk for deep vein thrombosis. He never examined his legs, checked his Homan's sign or ordered the nurses to check Homan's sign, exercise his legs, put on compression hose, start sequential compression or administer anti-coagulants.

Episodes of Lower Extremity Pain Not Reported To Nurses

The patient's wife testified in court that the deceased did have problems with pain and what he described as muscle cramps in his lower legs. He asked his wife to assist him to stand and move around and had her soak some towels in warm water and place them on his legs.

The wife admitted, however, she and the deceased never reported any of this to the nurses.

Nursing Experts Testimony

The family's nursing experts testified the nursing literature now establishes a basic nursing function to assess any immobile patient for lower extremity tenderness with touch and dorsiflexion of the foot and to look for calf swelling.

Nurses should instruct immobile patients in calf-pumping exercises, particularly patients who are at-risk due to age and obesity.

The jury apparently discounted the family's nursing experts' testimony. Little v. Pou, __ So. 2d __, 2008 WL 239687 (La. App., January 30, 2008).

Injury to the patient, in and of itself, does not raise a legal presumption of negligence by a caregiver.

The law does not look at the outcome to determine whether the actions of the nurses were reasonable and met the standard of care.

Instead, the professional judgment and conduct of the nurses is evaluated under the circumstances when care was rendered, not in terms of the result or in light of subsequent events.

The key to the nursing staff's observations of their patient was the lack of any reports of leg pain.

It was reasonable for the jury to conclude that if the incidents to which the family later testified had been reported to the nurses, the cardiovascular checklist would not have reported "no calf tenderness."

The jury's finding in a medical malpractice case is reviewed only for manifest error. The jury's verdict can be overturned only if there was no factual basis, not just because the judge disagrees with the jury.

COURT OF APPEALS OF LOUISIANA
January 30, 2008