

Narcotics, Respiratory Depression, Hypoxia, Brain Injury: Court Applies A Different Standard Of Care In Emergency Situations.

The patient was treated in a hospital emergency room following a motor vehicle accident in which she lost consciousness.

Treatment involved administration of morphine, Phenergan and Ativan. The patient apparently suffered respiratory depression which resulted in hypoxia, which in turn led to neurological brain injuries.

The patient's malpractice lawsuit alleged negligence on the part of the physician and nurses who treated her in the emergency room. The lawsuit specifically faulted the manner in which medications which can cause respiratory depression were administered.

The patient's medical expert's opinion only reiterated the generic standard of care:

A baseline of vital signs must be established, i.e., blood pressure, pulse, respiratory rate and mental status, prior to administration of the medication.

After administration of the first dose, and before and after each subsequent dose, the same vital signs must be periodically reassessed for evidence of respiratory depression.

Any departure from this standard of care is negligence. If it can be proven to have harmed the patient, the patient can sue for damages, according to the patient's expert.

The Court of Appeals of Texas, however, ruled that the patient's physician/expert was not an expert on the standard of care for doctors and nurses treating emergency cases. The Court of Appeals dismissed the lawsuit on the grounds that competent expert testimony was lacking.

In emergencies caregivers are not necessarily able to reassess the patient's vital signs, mental status and respiratory function, and other factors such as a cranial injury, which sometimes cannot be quickly assessed, may come into play while the patient needs medication for pain and anxiety so that necessary care can be given. **Cox v. Vanguard Health Systems, Inc., 2005 WL 2367582 (Tex. App., September 28, 2005).**