

Patient Left Unattended, Wound Draining: Court Says Expert Testimony Not Required.

A patient developed an infection and died in the rehab facility where she was transferred after hip replacement.

Her daughter sued. The daughter's lawyer filed an affidavit from an out-of-state physician. The physician's affidavit stated in general terms that the care given to the patient by the physicians and nurses at the rehab facility was negligent and was the cause of the patient's death.

The judge dismissed the case, finding the physician's affidavit legally insufficient to support a medical malpractice claim. The daughter filed an appeal.

Expert testimony about the standard of care is not required when negligence is so grossly apparent that lay persons would have no difficulty recognizing it.

COURT OF CIVIL APPEALS OF
OKLAHOMA, 2001.

The Court of Civil Appeals of Oklahoma sided with the daughter. Her own affidavit was acceptable evidence of professional negligence by the facility's staff. Her affidavit stated she found her mother sitting unattended in a wheelchair in a great deal of pain with her clothing soaked below the waist in drainage from her surgical wound, which she brought to the staff's attention and got no action.

According to the court, a patient or other lay person can testify about negligence that is grossly obvious. Benson v. Tkach, 30 P. 3d 402 (Okla. App., 2001).

Diabetic Ketoacidosis: Nurse Ignored Lab Results, Patient Dies, Allowed To Leave E.R. Against Medical Advice.

The patient was an inmate of the local county jail. He was brought to the hospital by a jail guard because he complained of lower abdominal pain and nausea and was vomiting blood.

The E.R. triage nurse took his vital signs. His pulse was fast and his blood pressure was higher than normal. She drew blood for CBC and electrolytes and sent the blood to the lab.

The CBC came back with a slightly elevated white count. While they were waiting for the electrolytes to come back from the lab the E.R. physician tried to insert a nasogastric tube to check for blood in the stomach. The patient objected to this highly unpleasant procedure and the physician stopped. The patient insisted on signing out AMA and leaving.

Just then the patient's electrolyte results came up on the computer terminal highlighted as "PANIC VALUES EXCEEDED." That is, the electrolytes strongly pointed to diabetic ketoacidosis.

The nurse paid no attention. She had the billing clerk complete the paperwork for an AMA discharge. The patient died at the jail three days later.

The Supreme Court of Alabama faulted the hospital for the patient's death. The court believed the nurse never should have let the patient leave without communicating the lab results to the physician so that the physician could have urged the patient to stay and be treated for a life-threatening condition.

The medical examiner testified with proper emergent care the patient most likely would not have died.

The court also thought the lab should have phoned the results to the E.R. as well as sending them over the computer. However, that still meant the nurse had to appreciate the problem and take proper action. Lyons v. Walker Regional Medical Center, 791 So. 2d 937 (Ala., 2000).

When the lab detects dangerously abnormal lab values the results must be communicated immediately to the unit of the hospital where the lab tests were ordered and highlighted with a notation that the values are highly abnormal.

In this case the cluster of electrolyte values strongly suggested a diabetic patient in acute ketoacidosis, a life-threatening medical emergency.

If a nurse has the specialized clinical training to work on a particular unit in the first place, the nurse must be able to recognize when lab values are highly abnormal and take action.

That is not to say that lab technicians, unit secretaries, computer data terminal operators, resident physicians and other caregivers do not have similar responsibilities to see that life-threatening lab values are communicated and promptly acted upon.

With his lab values pointing to ketoacidosis the nurse should not have let the patient sign out against medical advice.

SUPREME COURT OF ALABAMA, 2000.