

Acute Myelogenous Leukemia: Court Faults Nurse For Diagnosing Patient With The Flu.

A college student came to the campus outpatient health care clinic on a weekend with flu-like symptoms.

The clinic staffed the clinic during off-hours with a registered nurse who was instructed to conduct an initial assessment and to contact a designated on-call physician if the nurse believed a patient needed to be seen by a physician.

The student patient complained to the nurse of a dry cough, nausea, dizziness, upper abdominal discomfort, lower back pain and general malaise.

Without consulting the physician the nurse determined the patient had influenza and recommended she drink fluids, follow a bland diet, rest and take Tylenol.

The nurse offered her a bed in the clinic infirmary, but the patient declined. The nurse released her from the clinic to go back to her dormitory room.

The patient was advised to return to the clinic if her symptoms persisted or worsened.

The patient went to stay with her parents. Fifteen days later her parents took her to a hospital, where she died of acute anemia triggered by acute myelogenous leukemia.

The nurse at the clinic deviated from the legal standard of care for registered nurses by diagnosing and formulating a treatment plan for the patient without seeking the assistance of a physician.

The physician associated with the clinic deviated from the legal standard of care for physicians by signing off on the nurse's medical judgments.

The patient's family claimed the clinic was negligent by staffing the clinic on weekend off-hours with a registered nurse who had instructions to contact an on-call physician if she believed a patient needed to be seen by a physician.

This is a common arrangement. There is no evidence of any fundamental negligence by the clinic itself, apart from the negligence of the nurse and physician.

APPEALS COURT OF MASSACHUSETTS
March 25, 2004

The jury reached a verdict against the clinic for \$2 million in damages to the parents for wrongful death.

The Appeals Court of Massachusetts threw out the verdict because the parents' attorneys' legal arguments were not sufficient to support a case against the clinic.

No Negligence By Clinic Registered Nurse Staffing

The court said there is nothing fundamentally negligent in staffing an outpatient clinic during off-hours with only a registered nurse who has standing orders to assess patients and contact an on-call physician if and when the nurse believes the patient must be seen by a physician.

No negligence is committed if the clinic staff on duty are not expected or allowed to practice beyond their competency or their professional licenses and have instructions to seek appropriate consultation and make appropriate referrals.

Nursing / Medical Negligence

The patient's parents made the decision to leave the nurse and the physician out of their lawsuit, and to proceed in court only against the clinic.

The court believed it is was negligent under the circumstances for the clinic nurse to make medical judgments as to this patient's diagnosis and plan of care without consulting a physician.

It was also negligent for the clinic physician, the court said, to sign off on the nurse's medical conclusions without actually seeing and examining the patient. **Goldberg v. Northeastern University, 805 N.E. 2d 517, 2004 WL 575148 (Mass. App., March 25, 2004).**

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