

Medication Error: Court Upholds Verdict For Nursing Negligence.

The eighty year-old nursing home resident suffered from Parkinson's disease, dementia and the aftereffects of a stroke at age seventy-four.

She had no history whatsoever of diabetes or hypoglycemia.

She was found unresponsive in her room in the middle of the morning and was rushed to the hospital where her blood glucose was discovered to be 12.

The patient was diagnosed with encephalopathy due to hypoglycemia which the physicians suspected came from oral ingestion of anti-diabetic medication.

The patient came out of her coma but never regained her semi-independent functioning and died within fifteen months. The jury awarded the family \$1,250,000 as punitive damages, \$400,000 for her pain and suffering and \$554,000 attorney fees and costs. The US Court of Appeals for the Sixth Circuit (Ohio) upheld the verdict.

Disturbing Conditions At The Nursing Home

Two former employees of the nursing home described disturbing conditions at the facility, including disorganized medication carts, pre-pouring of medications and falsification of medical records.

There were only two LPNs assigned for the care of eighty residents. The LPNs were often rushed and as a result of their haste regularly engaged in the practice of pre-pouring medications. The medication cart was "a mess" most of the time. The wrong pills were in the medication trays. The nurses would borrow medication from one resident and give it to another. At the time of her death more than fifty of this resident's pills were found to be missing.

A supervisor altered records to cover up a medication error. Staff and supervisors routinely filled in "holes" in residents' medication administration records retroactively at the end of the month.

In the Court's judgment, the whole situation went beyond simple negligence and justified the jury's decision to award punitive damages for conscious and malicious disregard of the resident's well established legal right to a safe environment free from significant medication errors. **Freudeman v. Landing**, ___ F. 3d ___, 2012 WL 6600356 (6th Cir., December 19, 2012).

Two physicians testified that in their opinion, to a reasonable degree of medical probability, the nursing facility erroneously administered anti-diabetic medication to the deceased, which caused a severe drop in her blood sugar.

Two other physicians, the nursing facility's experts, could only speculate that malnutrition or a urinary tract infection could have caused the problem.

The physicians' testimony, taken along with the testimony of two former nursing home employees as to the chaotic conditions at the facility, supports the jury's verdict against the facility.

The nursing facility had complete control of the anti-diabetic medication at the facility that was being taken by residents who used such medication, that is, none of the four residents who administered their own medications were on such medication.

It is not a realistic explanation that anti-diabetic medication was given to this resident by a third party. Even if that did happen it would amount to lax supervision of the residents' environment which itself would be negligence.

UNITED STATES COURT OF APPEALS
SIXTH CIRCUIT
December 19, 2012

Correctional Nursing: Court Says Nurse Was Deliberately Indifferent.

When the inmate was booked into the jail his medical history included the fact he was being treated by a local specialist for autoimmune chronic hepatitis, esophageal varices, anemia, jaundice and splenomegaly.

Early in the a.m. the day after being booked he vomited a large puddle of blood in his cell. He explained to a jail officer that he had gastric ulcers for which he took numerous medications and that he had had twenty-seven units of blood transfusions during the previous month.

The officer phoned one of the jail nurses at home and explained the situation. She told the officer to give him some liquid antacid. He threw up lots more blood again. When she was phoned again the nurse told the officer to give him a Phenergan suppository. When they phoned her again the nurse finally decided to come in to the jail. She had the inmate moved to medical solitary and continued the suppositories. The next day the inmate died from a massive gastrointestinal hemorrhage.

The nurse violated the inmate's Constitutional rights through deliberate indifference to his serious medical needs.

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
December 12, 2012

The US Court of Appeals for the Fifth Circuit (Texas) placed blame on the nurse for failing at least to alert the physician and for not sending the inmate to the hospital due to the seriousness of his condition.

Deputies working for the county sheriff who was responsible for the jail did all they were expected to do and the jail physician was never informed by the nurse what was actually going on with this inmate. **Bolin v. Wichita County**, 2012 WL 6194359 (5th Cir., December 12, 2012).