

Morphine Toxicity: Elderly Patient Died From Overdose, Not From Underlying Illnesses.

After the elderly patient's passing the family filed a wrongful-death lawsuit against the physician, five LPN's who cared for him during his last days in the nursing facility and the facility itself.

The patient had multiple problems including diabetes, coronary artery disease and Parkinson's.

When he fell and broke his hip the doctors decided he was not a candidate for surgical repair. He was transferred from the hospital to the nursing facility ostensibly for non-surgical rehab. His health began to decline rapidly and he soon died.

On admission to the nursing facility he was alert and oriented. He was considered a full-code patient because he never signed paperwork indicating another preference.

As his health status declined, his wife, whom he had earlier named in a durable power of attorney, also without dealing squarely with the code vs. no-code issue, refused to allow him to be sent back to the hospital to undergo additional medical procedures and consented to p.o. morphine for pain management.

Court Sees Evidence Of Professional Malpractice

The court expressly ruled out any intentional action taken by the caregivers to hasten the inevitable result.

It was therefore a non-issue whether the wife did not exercise her authority under the durable power of attorney to consent to an "angel of death" scenario.

Instead, the court saw it as a case of straightforward professional malpractice by the physician and nurses who cared for the patient in his final days.

The patient was certainly close to the end when he was sent to the nursing facility with no realistic hope that any further medical intervention could or would cure him.

However, even in his perilous state the law can still recognize him as a victim of malpractice if an overdose of medication was the cause of his death, the court ruled. **May v. Mercy Memorial**, 2009 WL 131699 (Mich. App., January 20, 2009).

The family's medical expert testified that two blood samples taken five days after death had morphine concentrations five times the accepted therapeutic level.

True, post-mortem redistribution and pooling of blood in the corpse can skew a toxicology reading, and it was not known how or where on the body the blood was drawn.

Yet microscope slides prepared from samples of heart, lung, kidney and liver tissue taken during the autopsy reveal only long-term changes, i.e., mild emphysema in the lungs and mild arteriosclerosis in the kidneys.

It certainly possible to question the exactness of the morphine toxicology results.

The bottom line, however, is there is no solid evidence to explain why this patient died how and when he did other than morphine intoxication from negligent over-administration of morphine by his caregivers in his last days.

There is no evidence of an intentional act by an "angel of death."

COURT OF APPEALS OF MICHIGAN
January 20, 2009

O.R.: Infection Had To Have Been Caused By Break In Sterile Technique.

After an earlier discectomy the patient had to undergo an extensive cervical fusion surgery due to an infection which her physicians determined originated in the C4-C5 intervertebral space.

The MRI established that the patient's post-operative infection originated at C4-C5.

The only possible explanation is that a needle inserted during the procedure as a marker at C4-C5 was contaminated.

NEW YORK SUPREME COURT
APPELLATE DIVISION
January 20, 2009

The New York Supreme Court, Appellate Division, accepted medical testimony that the only possible cause for the infection was that a contaminated needle was used as a marker at that location during the procedure.

Patient Does Not Have To Prove How It Happened

The court went over the testimony of hospital personnel how non-sterile packaging is opened by the circulating nurse who delivers the instrument to the sterile scrub nurse who opens the sterile packaging inside and places the instrument on the sterile table for use by the surgeon.

There was nothing in that testimony even suggesting how this needle could have become contaminated.

However, the crucial point of evidence was expert medical testimony that there was no other explanation beside contamination to account for the result. **Antoniatto v. Long Island Jewish Med. Ctr.**, ___ N.Y.S. 2d ___, 2009 WL 146581 (N.Y. App., January 20, 2009).