Medical Records: Concealment Can Extend Statute Of Limitations.

The family of a patient who died in the hospital faced dismissal of their malpractice lawsuit over the fact it was filed in court more than two year after the patient's death, two years being the statute of limitations to sue for malpractice in Texas.

Fraudulent Concealment Can Extend Statute of Limitations

The Court of Appeals of Texas agreed, at least in principle, that a healthcare provider stalling on a legitimate and correctly formulated request for medical records from a patient or deceased patient's family, even if it is known that they are thinking of or planning to sue, can extend the statute of limitations beyond the period ostensibly allowed by law.

However, that was not what happened.

The family's lawyer wrote a letter advising the hospital of his representation sixty days after the patient died. That proved the family knew they had grounds for a claim while plenty of time was left to sue within the statute of limitations.

The lawyer and the family never actually asked for the medical records, so there was no concealment by the hospital. **Shoemaker v. Lorenz, 2013 WL 6056571 (Tex. App., November 14, 2013).**

Nursing Home Admission: Court Says Facility Did Not Discriminate.

Not having received a report or any medical records, the nursing home did not know until the moment the patient arrived that she had special needs. She was deaf and blind.

The nursing home had no interpreter, could not obtain an interpreter, would not be able to communicate with her and thus was not able to care for her.

The nursing home never agreed to accept the patient and never undertook to formulate or carry out a plan of care for her.

The patient remained in the ambulance the whole time under the care and supervision of the EMTs employed by the county ambulance service.

There is no evidence the patient was neglected or mistreated or that the ordeal affected her health.

UNITED STATES DISTRICT COURT
TENNESSEE
November 18, 2013

The nursing home received a phone call from a charge nurse at the hospital at 4:00 p.m. on a Friday advising that a patient was on her way by ambulance.

When the patient arrived at the nursing home an interpreter from the hospital who rode with her in the ambulance advised nursing home personnel that the patient was deaf and blind.

The nursing home had no other deaf and blind residents and did not have an interpreter on staff. As it was after business hours on a Friday p.m. there was no way to get an interpreter from an agency until Monday a.m. at the earliest.

Consequently the nursing home was not able to meet the patient's needs, would not be able to accept the patient, refused to accept her and sent her back to the hospital where she arrived back a little more than two hours after she left.

It took four hours for the hospital to settle her into a bed. During that interval she remained on a gurney in the corridor of the emergency department.

Afterward the family sued the nursing home for malpractice. The lawsuit claimed that the patient was the victim of disability discrimination, was robbed of her dignity and subjected to mental, physical and emotional pain and suffering.

The US District Court for the Eastern District of Tennessee ruled the nursing home never undertook to provide care to the patient, and had good grounds to refuse to do so and was not liable in the family's lawsuit. **Southwell v. Summit View, 2023 WL 6061332 (E.D. Tenn., November 18, 2013).**