

# LEGAL EAGLE EYE NEWSLETTER

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*For the Nursing Profession*

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## Overdose: Nurse Manager's Misstatement Of The Facts Can Extend Statute Of Limitations.

The patient was discharged from the hospital on October 1, 2007.

Before he left, the patient and his wife met with the hospital's patient advocate to complain that he was given too much, that is, two doses only four hours apart of the OxyContin 20 mg ordered by his surgeon for pain following orthopedic surgery, then became lethargic, experienced complications including problems with his breathing and fell twice in his bathroom.

On October 9, 2007 the orthopedic unit nurse manager sent the patient a letter stating his chart showed that he was given his medications as ordered but apparently had a sensitivity which was promptly reported to the physician by his nurse and new orders obtained.

On October 27, 2007 the patient received the complete hospital chart, including his pharmacy records.

On October 6, 2009 the patient sued the hospital for malpractice allegedly committed at the hospital.

The hospital petitioned the court to dismiss the lawsuit on the grounds it was filed more than two years after the alleged malpractice, two years being the Iowa statute of limitations for healthcare malpractice.

The Court of Appeals of Iowa ruled there were legal grounds to extend the statute of limitations.



***When a caregiver gives a patient an explanation that is not true the court can extend the statute of limitations so that the patient gets the full legal time period to file suit starting when he learned that what he was told was not true.***

***The hospital will not profit because the patient accepted, even briefly, that the nurse manager was telling the truth.***

COURT OF APPEALS OF IOWA  
December 21, 2011

### **Nurse Manager's Misstatement Extended the Statute of Limitations**

The complete records the patient was given October 27, 2007 showed that the surgeon's original order was for 10 mg of OxyContin orally every 8 hours for pain, which the surgeon upped to 20 mg 3x per day because the patient was still in pain, and that that day the patient got 20 mg of OxyContin at 9:40 a.m. and 20 mg at 2:00 p.m.

The nursing progress note for 3:15 p.m. that day documented that because of the wife's concern over the patient's lethargy the surgeon was phoned and lowered the OxyContin to 10 mg.

That evening the patient's O<sub>2</sub> sat dropped to 55% which was corrected by having him take deep breaths. That night he fell twice in his bathroom.

The patient received two doses of his medication more quickly than ordered and that could explain what happened afterward, in contrast to what the nurse manager's letter said about a supposed sensitivity to OxyContin.

The statute of limitations for this case is two years, not from the date of the last treatment, but from the date the patient got the complete records which pointed the finger at a medication error, the Court ruled. **Hanssen v. Genesis Health**, 2011 WL 6658318 (Iowa App., December 21, 2011).

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