Overdose: Unexplained Event Linked To Negligence.

The coroner's report established conclusively that the hospital patient died from a lethal dose of Oxycontin.

Two medical experts testified that the lethal dose of narcotic had to have been ingested within one hour before her death.

The night nurse had noted the patient was sleepy but arousable at 6:55 a.m. The day nurse found her blue with frothy secretions coming from her mouth at 7:25 a.m. The medication count at the 7:00 a.m. shift change had indicated none of the patient's narcotics had been checked out.

For eleven days hospital staff nurses were giving the medication which caused her death.

It is a logical inference the hospital is responsible for the overdose.

COURT OF SPECIAL APPEALS
OF MARYLAND
December 1, 2005

The Court of Special Appeals of Maryland overruled the lower court judge who had ruled in favor of the hospital.

There was no direct proof how the patient got the lethal dose of narcotic. However, the patient was exclusively under the control of hospital personnel at the time of the events in question. That element of exclusive control leads to a logical inference that some act of negligence must have been committed by the hospital, the court said.

The patient's estate's attorneys would not be required to rule out other implausible explanations like a family member providing the medication or the patient deciding to take her own life, for the lawsuit to go forward. **Tucker v. Univ. Specialty Hosp., __ A. 2d __, 2005 WL 3213897 (Md. App., December 1, 2005).**

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