

## Sexual Assault: Court Refuses To Fault Patient's Nurse.

A male patient was sexually assaulted, that is, groped inappropriately by a male medical resident physician while the patient was in the hospital's post-anesthesia recovery unit.

The nurse assigned to the patient listened for a moment to the resident's conversation with the patient, which was about the patient's tattoos. Since it did not seem to have to do with the patient's care the nurse left and was back at the nurses station when the patient was assaulted.

The patient sued the medical resident for assault and battery and outrageous conduct.

He also sued the hospital, alleging his nurse was negligent for allowing the assault to occur.

***The patient's allegations against the hospital are premised on the theory that the hospital's nursing staff failed to protect him when he was in a particularly vulnerable condition following surgery.***

UNITED STATES DISTRICT COURT  
COLORADO  
April 16, 2014

The US District Court for the District of Colorado ruled there was no plausible evidence that the patient's nurse was guilty of negligence.

There was no proof that the medical resident had ever before groped a patient or that he posed a known risk of sexual assault or that the hospital was aware that sexual predators had taken advantage of post-operative patients in the past.

There was nothing to support the patient's allegation that the hospital nurse acted in conscious disregard of a known or obvious risk, which would be the legal standard for imposing liability on the hospital in this situation. Furlow v. Univ. of Colo., 2014 WL 1500645 (D. Colo., April 16, 2014).

## Overdose: Court Affirms Verdict For Deceased Patient's Family.

The seventy-nine year old patient, admitted to the hospital with end-stage COPD, died within minutes of receiving a 20 mg dose of morphine from a nurse.

In the hospital she seemed at first to be improving, but on the eleventh day the patient went into respiratory distress.

One of the physicians who responded to the code was a pulmonary critical care specialist who had never seen her before. He immediately prepared to intubate the patient, but stopped short when he was informed by another physician that the patient had told her own primary care physician she did not want to be intubated.

The other physician took over the patient's care, conferred with the family and the patient's own pulmonologist and ordered 2 mg of morphine prn for pain.

Then the pulmonary critical care specialist went back into the room and, without conferring with anyone, ordered an immediate 20 mg dose of morphine.

Forty minutes after the code was over a nurse gave the 20 mg of morphine and the patient soon died.

***The family's nursing expert faulted the nurse for failing to question a dose of morphine from a new physician for a COPD patient that was drastically higher than what had just been ordered by the patient's own attending physician.***

COURT OF APPEALS OF GEORGIA  
March 27, 2014

The Court of Appeals of Georgia accepted the testimony of the family's nursing expert that the patient's nurse should have questioned a large dose of morphine from a new physician for a patient with respiratory difficulty for whom the patient's own physician had just ordered a much smaller amount. Pruette v. Ungarino, 2014 WL 1243862 (Ga. App., March 27, 2014).

## End Of Life: Court Throws Out Jury's Verdict For Patient's Death.

The eighty-four year-old had been a resident of the nursing home for seven years before she had to be sent to the hospital in an advanced state of dehydration.

She suffered from end-stage dementia and had basically stopped eating and taking fluids and had been refusing her medications for several days.

Her physician months earlier signed off on a DNR order placed in her nursing home chart at her daughter's request.

As the end was approaching, caregivers at the nursing home documented the family's wish that no invasive procedures be employed, specifically no central venous lines, "pressors," code drugs, chest compressions, defibrillation or mechanical ventilation.

At the hospital the family repeated the same specific requests which were expressly documented in the chart.

When the patient went into hypovolemic shock the hospital did not start IV fluids or vasopressor medications, and the patient expired.

***The verdict was tainted by the judge's error keeping from the jury the fact the family had declined specific medical treatments for the terminal patient.***

COURT OF APPEALS OF MISSISSIPPI  
March 25, 2014

The Court of Appeals of Mississippi threw out a \$1,213,000 jury verdict against the nursing home for the patient's alleged wrongful death from dehydration.

The Court ruled the nursing home was entitled to have the jury hear of the family's wishes, which were documented in the nursing home and the hospital charts, that specific interventions that might have prolonged the patient's life were not to be attempted by the patient's caregivers. The family had asked merely that she be made as comfortable as possible. Manhattan Nursing v. Pace, \_\_\_ So. 3d \_\_\_, 2014 WL 1190373 (Miss. App., March 25, 2014).