



Alerts

Emergency Physician Not Qualified to Opine on Psychiatric Standard of Care

December 17, 2020

Health Care Alert

This alert was featured in Hinshaw's Annual Guide to Illinois Medical Malpractice Decisions: 2020 Edition

Issue

Can an emergency medicine physician offer expert opinions about the standard of care for psychiatric evaluation in drug overdose cases?

Fara Biundo, as Special Administrator of the Estate of Zenah S. Muhdi, Deceased v. Advocate Health and Hospitals Corporation, et al., 2020 IL App (1st) 191970

Case Summary

A 17-year-old patient died from a heroin overdose one day short of her 18th birthday. The day before, she was treated at the emergency department for a prior heroin overdose with Narcan, a heroin reversal agent. Despite requests from plaintiff to have the patient (her daughter) admitted, the patient was discharged because she was medically stable, did not require medication to manage withdrawal, and was not suicidal, homicidal, or psychotic. The patient was counseled to follow up with drug addiction services at discharge and she signed discharged instructions to that effect.

Before trial, the court granted a motion *in limine* barring plaintiff's emergency medicine expert from testifying about whether an in-person psychiatric evaluation was necessary and that discharge should be held until such time as inpatient psychiatric or substance abuse treatment could be procured. Notably, Plaintiff's expert originally opined in his disclosure that the emergency medicine physician erred in discharging plaintiff before psychiatric treatment could be procured, but later changed his opinion to requiring "in-person" psychiatric treatment when confronted during his deposition with evidence that a psychiatrist consulted the emergency physician by telephone. At trial, the jury rendered a defense verdict on plaintiff's negligent discharge claim. Plaintiff appealed on numerous grounds, including refusal to allow certain testimony from her retained emergency medicine expert.

In determining whether plaintiff's expert was qualified to render the opinion, the appellate court noted that he had no specialty within addiction or substance abuse and no training in any psychiatry, nor had his practice ever included counseling or evaluating patients from a psychiatric or psychological standpoint. In his deposition, plaintiff's expert admitted that psychiatric evaluations are beyond what can be done by an emergency medicine physician, making it clear the distinct standard of care applicable to each. Because plaintiff's expert admitted that he could only speculate what a psychiatrist would have diagnosed or recommended following an in-person psychiatric evaluation, the court further concluded that plaintiff's expert's opinions could not establish proximate cause. As such, the court ruled that the trial court did not abuse its discretion in granting the motion *in limine*.



Takeaways

Litigants should consider filing motions *in limine* relating to speculative expert witness opinions that cannot establish the causative nexus to Plaintiff's alleged injury. In this case, because the emergency physician expert could only speculate about what a psychiatrist might have done on the basis of an "in-person" visit, his opinion that the emergency physician breached the standard of care by failing to procure such a visit was irrelevant and lacking in proximate cause.

[>> Return to Hinshaw's Annual Guide to Illinois Medical Malpractice Decisions: 2020 Edition](#)