



Medical Professional Liability News

A weekly update of significant news articles from around the nation and the world relating to medical professional liability insurance and reinsurance. This news recap is provided with our compliments by ReSource, an Integro Company.

NJ Dentist Under Investigation After Second Child Dies During Dental Work

*Injury Board, Tampa, FL
February 17, 2012*

A dentist on probation for the death of a child during dental care is facing investigation after a second child has died.

Dr. Patrick Bamgboye, a 64-year-old dentist with Dental Health Associates, P.A., is facing review by state regulators and potentially a criminal investigation after a child died during a routine dental procedure at the firm's Irvington, NJ office. The dentist is already on probation for the death of another child in 2004.

On February 8 of this year, Antonia Cahchalac-Garcia took her son 3-year-old son Juan Quiej to Dr. Bamgboye's office for cavity filling, according to The Star-Journal. Prior to the procedure, the dentist's office wrapped Juan in a papoose, a backboard with Velcro straps commonly used with pediatric patients to restrain movement, and gave him a local anesthetic.

Local anesthesia involves use of an anesthetic drug applied topically or via an injection to numb a small, specific area of the body.

CBS New York reports that an attorney

for Ms. Cahchalac-Garcia said she noticed her son was in distress during the procedure and asked Dr. Bamgboye to stop, whereas the dentist told her to relax and let him work. Fifteen minutes later, Juan's lips were blue and he had stopped breathing. Emergency services transported Juan to the hospital where doctors pronounced him dead.

The New Jersey Division of Consumer Affairs, who oversees the Board of Dentistry, is investigating the death of Juan Quiej. The state Attorney General and Essex County Prosecutor's Office are determining if Dr. Bamgboye's actions warrant a criminal investigation.

This is not the first time a child has died undergoing dental work by Dr.

Bamgboye. In fact, he is currently on probation by the state Board of Dentistry after death of another young child.

In 2004, Farah Torres brought her 6-year-old daughter Kyneicha Pagan to Dr. Bamgboye for dental work, where she...

<http://newyorkcity.injuryboard.com/medical-malpractice/nj-dentist-under-investigation-after-second-child-dies-during-dental-work.aspx?googleid=298376>

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Drug Maker to Pay \$285 Million to Settle Hepatitis Lawsuits

*Las Vegas Review Journal, Las Vegas, NV
February 21, 2012*

International drug maker Teva Pharmaceuticals will pay more than a quarter billion dollars to settle most of the lawsuits arising from Southern Nevada's hepatitis C outbreak, closing a major chapter in the long legal battle for patients infected with the life-changing disease.

The Israel-based company has earmarked \$285 million to settle about 120 lawsuits, which include about 150 former patients at the Endoscopy Center of Southern Nevada and its sister clinics.

County health officials linked nine hepatitis C cases to the facilities run by Dr. Dipak Desai. Seven of the nine cases were genetically linked to the center. Health officials called another 106 cases "possibly linked."

The settlement leaves 15 open lawsuits against Teva.

"Teva is pleased to have put the vast majority of these matters behind us," company spokeswoman Denise Bradley said in an email Tuesday.

The generic drug-making giant had lost the first three trials against it and faced paying nearly \$800 million dollars in compensatory and punitive damages.

<http://www.lvrj.com/news/propofol-maker-teva-to-pay-250-million-to-settle-nevada-lawsuits-139856843.html>

Coastal Cancer Center's Potti Illustrates Difficulty of Screening Out-Of-State Doctors

*Myrtle Beach Online, Myrtle Beach, SC
February 18, 2012*

Few official resources exist for S.C. patients who want to check whether a physician has been disciplined by a medical board or sued for malpractice in another state, such as Anil Potti, the former Duke University oncologist who falsified data in a clinical trial and then moved to this area after resigning from the university in 2010.

Potti now practices oncology at Coastal Cancer Center, which is headquartered in Myrtle Beach and has four other locations along the Grand Strand in Brunswick County, N.C.

Potti claimed five years ago that he had discovered a way to

match cancer treatments to a patient's DNA, a breakthrough that would ensure a greater treatment success rate, according to the "60 Minutes" television show and numerous newspaper articles and medical journals that have chronicled Potti's career.

Duke University in Durham, N.C., conducted three clinical trials based on Potti's research. Those trials were halted in 2010 when it became clear that Potti had fabricated much of his research data. Potti and the university are being sued by at least eight patients—or their estates—who took part in the clinical trials and Potti has retracted nine academic articles about the research that were published in medical journals.

<http://www.myrtlebeachonline.com/2012/02/18/2668460/coastal-cancer-centers-potti-illustrates.html>

House Panel Approves Record Claims Bill for Teen Injured During Birth

*NaplesNews.com, Naples, FL
February 17, 2012*

A 14-year-old boy who is confined to a wheelchair and can't speak is one step closer to receiving a record payout after a Florida House panel approved his \$31 million claims bill Friday.

Aaron Edwards, formerly of Fort Myers, and his mother, Mitzi Roden, celebrated when the Civil Justice Subcommittee passed the measure on a 12-1 vote. It was one of 16 claims bills approved by the panel.

"For the past 14 years I have provided the 24/7 care. Everything he has is because I love my son more than life itself," Roden, told lawmakers as she fought back tears. "I am pleading for you to help my son by passing his claims bill."

Aaron's claims bill (HB 965) would be the largest in the state's history. It would require the publicly-run Lee Memorial Health System in Fort Myers to pay the boy and his mother \$30.8 million.

The bill must still pass one more panel, the Judiciary Committee, before it reaches the House floor. A companion bill has been introduced in the Senate but has not yet been passed.

Mary Briggs, a spokeswoman for Lee Memorial, said hospital officials are distressed by Friday's vote because "we did not cause Aaron Edwards' unfortunate condition."

<http://www.naplesnews.com/news/2012/feb/17/house-panel-approves-record-claims-bill-for-teen/>

Compromise Between Eye Doctors Could Lead to Litigation Limits for Other Patients Under Senate Bill

TCPalm.com, Stuart, FL
February 17, 2012

Patients who arrive at a doctor's office could be given one more form to fill out — a waiver for their right to a jury trial if they ever accused the doctor of botching their care — under compromise legislation passed out of a key Senate committee on Thursday.

The provision is one of a series of changes packed together into a wide-ranging bill passed by the Senate Judiciary Committee. The bill also ends the long-running war between ophthalmologists and optometrists over whether non-medical doctors can dispense prescriptions.

By merging the proposals together, the compromise, crafted by Sen. Don Gaetz, R-Niceville, and Sen. John Thrasher, R-St. Augustine, is intended to win enough votes for long-sought medical malpractice reforms in the traditionally reluctant Senate. It also gives the politically-influential optometrists the prescription powers they have wanted for a decade.

"It seems like a marriage of convenience and good policy," said Rep. Matt Gaetz, R-Fort Walton Beach, the son of the senator who is sponsoring the medical malpractice proposal in the House. "It enhances the likelihood that the House will give them every consideration."

The plan to allow doctors and other health care providers to ask patients to sign agreements to allow future malpractice claims go to arbitration instead of jury trials was sharply criticized by three lawyers on the committee as unconstitutional.

"Sometimes physicians try to do things that only hurt themselves and this is one of them," said Sen. David Simmons, R-Altamonte Springs. "Many of the things here are fundamentally unfair."

But Jeff Scott, lobbyist for the Florida Medical Association which supports the bill said "these provisions are needed, they're warranted and they're fair."

Sen. Arthenia Joyner, D-Tampa, called it a "blatant infringement on a citizen's constitutional right to access to the court."

<http://www.tcpalm.com/news/2012/feb/17/compromise-between-eye-doctors-could-lead-to-for/>

\$8 Million Verdict Returned Against Louisville Nursing Home

Courier-journal.com, Louisville, KY
February 13, 2012

A Jefferson Circuit Court jury on Monday awarded \$8 million in damages to the estate of a retired surgeon whose legs were broken while he was in the care of Treyton Oak Towers in Louisville.

The verdict against the nonprofit nursing home was returned after a two-week trial before Judge Brian C. Edwards.

Attorneys William Garmer and Matt Minner said that Dr. David Griffin died less than two months after he was improperly transferred from a chair into his bed — and that Treyton Oak tried to cover up what happened.

"We got justice today and are thrilled for our clients and thrilled for the elderly citizens of Louisville," Minner said in an interview.

Minner said after Griffin's legs were broken in the September 2008 incident, he was put back in bed "like it didn't happen" and employees were ordered to change medical records and cover the incident up.

Because of a stroke, Griffin couldn't tell anybody "about the agony he was in," Minner said.

After being found with two broken bones on Sept. 24, 2008, he was treated at a hospital and later transferred to a different nursing home. He died Nov. 3.

Scott Whonsetler, who defended Treyton Oak Towers, said it would appeal.

"We are profoundly, profoundly disappointed that we were unable to convey to the jury how much we cared for this man," he said in an interview.

Whonsetler also said "we categorically deny that there was any coverup whatsoever" and said no abuse or neglect was ever substantiated.

Whonsetler said Griffin had severe osteoporosis and doctors failed to inform nursing home employees of this diagnosis. Whonsetler said it is unknown exactly how Griffin's legs were broken.

<http://www.courier-journal.com/article/20120213/NEWS01/302130089/-8-million-verdict-returned-against-Louisville-nursing-home?odyssey=tab|mostpopular|text|FRONTPAGE>

Viability Unclear of \$900M Judgment Against Gainesville Nursing Home

*The Gainesville Sun, Gainesville, FL
February 10, 2012*

Whether an Alachua widow will ever collect a \$900 million court judgment levied against the Gainesville nursing home that treated her late husband remains to be seen, but her attorney on Friday was calling it a victory for patients' rights.

A jury's civil judgment announced Wednesday in Alachua County circuit court is the third since 2010 worth more than \$100 million that Tampa law firm Wilkes & McHugh has won against Delaware corporations that owned or operated 220 nursing homes nationwide — Trans Health Management and its parent Trans Healthcare. In Gainesville, the corporations' facility at 4000 SW 20th Ave. was called University Place Care and Rehabilitation Center, although the nursing home is known by a different name today.

As a result of these companies' care, the Rev. Joseph

Webb suffered pressure sores and infections that required surgeries, including an above-the-knee amputation of his right leg, attorney Bennie Lazzara Jr. told the jury.

"The family was grateful to have a chance to have the story told for Rev. Webb," Lazzara said Friday. "The main reason the family brought the suit was so that this wouldn't happen to anyone else."

Lazzara said he thought the \$900 million judgment was the biggest ever against a nursing home company. Because the defense was barred from the courtroom, the jury heard un rebutted testimony about what Webb suffered between 2001 and 2005 — the last part of his 10-year stay at University Place.

<http://www.gainesville.com/article/20120210/articles/120219937?tc=ar>



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