

DYING WITH DIGNITY: A DIFFERENT PERSPECTIVE

by: Regina A Casey, Esq.

My mother, who has lived in an Assisted Living Facility for the last five years, recently died at the age of 91. Watching my mother go through the dying process gave me a better understanding of some of the challenges the long term care industry faces when assisting families through the death of a parent. I want to share some of my observations with our readers in the hope it may be of some value to those of you who assist residents and their family through the dying process.

As an attorney who has represented health care providers over the past 25 years, I have been called upon to defend many wrongful death cases in which families claim their loved one died due to neglect or abuse. Most of the time, what Plaintiffs claim is a result of poor care is simply the normal changes that occur when a person is at the end of life. For example, a common allegation raised in a Complaint is that the nursing staff failed to provide adequate hydration and nutrition resulting in weight loss, dehydration and malnutrition. A plaintiff's attorney will argue the patient was not fed because the facility had an insufficient number of staff to assist with feeding. The food was not palatable as it was allowed to get cold. The water pitcher was not in reach and fluids were not offered.

Those of you who know me are aware that I began my career as a nurse and am familiar with changes that occur in the end of life. Those of us who have medical training know there are certain physical and mental changes that are expected as one begins the dying process. One loses their appetite and desire to eat as death approaches and eventually one may lose the ability to swallow. Organs shut down and patients may develop pressure sores, regardless of the quality of care provided.

My mother was no different from most dying patients as she too lost weight, became malnourished and dehydrated prior to her death. I would visit my mother daily and would often find a cold plate of untouched food next to her bed. At no point, however, did I think to blame the caregivers because my mother no longer would eat or drink. I would bring my mother's favorite foods and spent hours trying to encourage her to eat, without success. I knew it was not the fault of the nursing staff that my mother was neither hungry nor thirsty, but a normal step in the decline towards death. I also knew she was not suffering from her failure to eat or drink. It is well documented in the medical literature that starvation is not a painful process as many may think.

What is the difference between my reaction and that of a daughter who chooses to file a lawsuit blaming a facility's staff for her mother's death? The answer I believe is the level of understanding of the dying process and realistic expectations. No daughter could love her mother more than I and my grief over her loss was as great as any other. My mother died with dignity and grace thanks to the good care she received from her caregivers. So all of you reading this article who are healthcare providers and caregivers, I thank you for the wonderful service you provide to your residents and patients and their families by assisting them through this difficult phase in life. I also urge you to remember how important it is to make sure families are educated about the dying process so when they lose a loved one, they thank you not sue you.

About the Author:

A shareholder at Wroten & Associates, Regina Ann Casey has been defending physicians, hospitals and various other healthcare providers for over 20 years. Previously serving as a litigation partner at an East Coast firm with offices in Maryland and Washington D.C., she then worked with a West Coast medical malpractice defense firm. She has been with Wroten & Associates since it was founded.

Ms. Casey has successfully defended medical malpractice cases in federal and circuit courts in Maryland. She has also tried cases in the U.S. District Court and Superior Court for the District of Columbia, and in California's Superior Court. She has participated in a number of arbitrations and is a mediation specialist. She has represented physicians in administrative hearings before the Medical Board in Maryland and at hearings to defend physicians' hospital privileges.

She graduated magna cum laude from Duke University earning a Bachelor of Science in Nursing in 1975. After working as a nurse at the University of Virginia and Georgetown University Hospitals, she earned her Master of Science in Nursing at Catholic University America, where she was a member of the Nursing Honor Society, Sigma Theta Tau. She graduated with honors from the University of Maryland Law School and was admitted to the Maryland Bar in 1986; the District of Columbia Bar in 1987, and the California Bar and U.S. District Court for the Central District of California in 2001.

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