



Jeffer v. West, 275 P.3d 228 (Utah 2012)

Topics Covered: Professional Liability, Abusive Litigation Against Physicians

Outcome: Very Unfavorable

Issue

The issue in this case was whether health care providers owe a duty to their patients' children, which can be breached through inappropriate care to their patients.

AMA Interest

The AMA strives to avoid the expansion of liability theories against physicians, which can lead to abusive malpractice litigation.

Case Summary

According to the complaint filed in this lawsuit, a patient was treated for psychiatric problems at a medical clinic. He was seen by an advanced family nurse practitioner, who prescribed a cocktail of seven psychotropic drugs, including stimulants, tranquilizers, antidepressants and steroids. Although Utah law requires that a physician must supervise and consult with a nurse practitioner before prescribing drugs of this nature, the physician in charge of the clinic neither supervised nor consulted with the nurse practitioner, and he failed to monitor the nurse practitioner's treatment of the patient.

During his visits to the clinic, the patient displayed "toxic side effects" from the combined medications. Furthermore, he advised the nurse practitioner that he was having marital problems and his wife had had a legal restraining order entered against him. However, the nurse practitioner continued to prescribe the drug cocktail without consulting the supervising physician. Under the circumstances, continuation of the drug cocktail was medically inappropriate.

Ultimately, the patient shot and killed his wife in a church parking lot, in daylight and in front of several witnesses. Within two hours of the shooting, the patient turned himself in to the police. Blood toxicology reports showed that the patient was within the prescribed ranges of all his medications and he had no illicit substances in his blood stream at the time of the shooting. Allegedly, a causal factor in the shooting was the administration of the drug cocktail and the failure of the nurse practitioner, the supervising physician, and the clinic to provide alternative psychiatric care. The patient subsequently pleaded guilty to and was convicted of murder.

The patient's minor children (who were also the victim's children), through their guardian, sued the nurse practitioner, the supervising physician, and the clinic. The defendants moved to dismiss, asserting that their legal duty was solely to the patient and not the children. The trial court granted the defendants' motion, and the children appealed directly to the Utah Supreme

Court. The primary legal question on appeal was whether the defendants owed a common law duty to the children to provide proper medical care to their father.

On February 28, 2012, the Utah Supreme Court found that the medical care providers did owe a duty of care to their patients' children. The Court emphasized that, under the pleadings, the defendants' affirmative actions of misprescribing medicine had caused their patient's psychotic reaction, and the defendants should be responsible for the injury they had caused. The case was reversed and remanded.

Litigation Center Involvement

The Litigation Center, along with the Utah Medical Association and other health care organizations, filed an *amicus curiae* brief, arguing that physicians should not owe a duty to their patients' children on account of the medical care the physicians provide to their patients.

Utah Supreme Court brief