

Failure to Follow Physicians Orders Results in Nursing Home Choking Fatality

Article By:

Jonathan Rosenfeld

A nursing home located in Wicker Park, on the West Side of Chicago, has agreed to a settlement of \$875,000 after nurses failed to follow doctors' orders and a patient died. The elderly man who died was provided food that was not permitted in his diet program and was allowed to eat unsupervised, even though he was at high risk of choking. Antonio Mares died on November 9, 2012 when a nursing assistant was unable to properly perform the Heimlich maneuver while he was choking. His family has stated that this case is an example of what happens when there is no oversight over the standards of training for nursing center employees.

Physician's Orders Reflected Patient's Special Needs

Antonio Mares was prescribed a diet of mechanical-soft food by his doctor due to medical complications which increased his risk of choking. As he was at an elevated risk, he was also to only be fed while under the supervision of a nurse or nursing assistant. On November 9, 2012, both of these directives were ignored when a certified nursing assistant provided him with a tray of food that did not meet his dietary specifications and then proceeded to leave him to eat unsupervised.

Mares fought for his life after he began to choke, using the call button to desperately gain the attention of nursing staff members. Nobody responded to the calls and it wasn't until the nursing assistant returned to the room that anyone was aware of the issue. The CNA proceeded to attempt the Heimlich maneuver, but did not perform it properly. Numerous other attempts were made to save his life, but they were all too late.

Poor Training Practices Faulted for Death

There is simply no excuse for why any member of a nursing staff should not be equipped to respond to these types of situations. Antonio's family argued in their lawsuit that the nursing home suffered from systemic problems rooted in understaffing and inadequate employee training. The strongest evidence of training concerns lied in the fact that a certified nursing assistant was unable to perform a common lifesaving maneuver on a patient in a facility specifically meant to serve older residents more prone to choking.

Patients that are considered high-risk for choking should also never be left to eat without supervision

or assistance. Mares was not only provided the wrong food for his special needs, but he was then left to fend for himself until he began to choke.

The Mares family feels that the \$875,000 settlement the facility offered will never come close to making up for the loss of their loved one and for depriving the family of the chance to say their goodbyes on their own terms. They do hope that it will send a message and motivate change for the facility and others serving the area.

The facility held liable for Mares's death is the Center for Hispanic Elderly in Wicker Park at 1401 N. California Avenue. It has been subject to reports of understaffing and improper training in the past.

Reports of nursing home neglect and abuse have been on the rise over the last twenty years due to lowered quality of care. The only way to effect change in an environment where profit has been prioritized over the wellbeing of patients is to hold negligent nursing facilities accountable for their policies.

-
- <https://www.osha.gov/SLTC/nursinghome/>
 - <https://www.iadvanceseniorcare.com/article/nursing-home-safety-issues>
 - <https://www.ahrq.gov/professionals/systems/long-term-care/resources/facilities/ptsafety/index.html>

Copyright © 2025, Rosenfeld Injury Lawyers

National Law Review, Volume VII, Number 205

Source URL: <https://natlawreview.com/article/failure-to-follow-physicians-orders-results-nursing-home-choking-fatality>