Avoiding Allergic Reactions to Latex Fatality File

Failure to detect latex allergy leads to death, $4.7M verdict

A 29-year-old mother of two young sons received a hysterectomy and partial vulvectomy at the recommendation of her gynecologist. The surgery was performed by the woman's OB/GYN and his partner. The woman regained consciousness after surgery but complained of itching and nausea. She also had blisters on her lips and redness of the face. The woman was provided with Benadryl and another drug for her itching.

The night of the surgery, the woman's husband heard the woman gasping and making gurgling sounds. When she was unable to respond to him, the husband contacted the nurse who found the woman having trouble breathing. An emergency department (ED) physician immediately intubated the woman. Due to the intubation, the woman was unable to breathe on her own and was placed on a ventilator and transferred to the intensive care unit. Despite this intervention, the woman exhibited no neurological function following the cardiac arrest and was taken off the ventilator. She died four days later.

At trial, the husband introduced the hospital's latex allergy policies and procedures which provided, in part, that "all patients should be assessed for [a] latex allergy." The policy also provided that patients should be questioned about certain items, including apple, banana, and chestnut allergies (ABC food allergies), which would indicate a patient was at high risk for such an allergy. The woman's allergy list included sulfa, Lorcet, dairy products, seafood, and adhesive tape. On the nursing admission history, prepared a week before surgery, the same allergies were listed. The form also included a section titled "Latex Allergy Alert" which did not appear to be adequately completed by the nurse despite the woman admitting to having an allergy to chestnuts (one of the ABC food allergies' foods). The doctor never was informed that the woman had several of the ABC food allergies.

Had an allergy been noted on the woman's chart, the hospital's policy would have required an allergy sticker on the chart, signage on the patient's door, notification to central supply and purchasing regarding any special supplies or products needed, and notification to food and nutrition to ensure servers not wear latex gloves when serving the patient's food. The nurse maintained during her testimony that the patient did not give her any information regarding being allergic to latex and that based on her understanding of the policy, notification was only required if the patient had affirmatively acknowledged a known allergy to latex.

Experts for the parties disagreed on whether the woman had a latex allergy.

Ultimately, however, the jury returned a verdict in favor of the woman’s husband in the amount of $4.7 million. The award was split such that $516,000 was paid to the wrongful death beneficiaries and $4.2 million to the woman’s estate.