

Print Page

Nursing home staff knew of 'angel of death' scheme, complaint says

By AMBER KROSEL - akrosel@nwherald.com

CHICAGO – A wrongful-death lawsuit was filed Friday in a case of premature death at a Woodstock nursing home in 2006.

The complaint, seeking in excess of \$50,000 in damages, was filed in Cook County Circuit Court against the licensee of Woodstock Residence, former nurse Marty Himebaugh, and former Nursing Director Penny Whitlock for allegedly administering lethal doses of morphine that helped kill a 78-year-old woman.

Virginia Cole, who had been living at the nursing home for just two months, died Sept. 10, 2006.

Attorney Steven Levin filed the lawsuit on behalf of Cole's daughter, Vickie Lund of Cary. It alleges that morphine doses given to Cole were beyond her physician's orders, thereby causing premature death.

The lawsuit also alleges that several staff members of Woodstock Residence were aware of Himebaugh's actions and failed to report them.

"I think it's important to bring to light the activities that went on at that nursing home over at least a two-year period ... where apparently not only was [Himebaugh] illegally administering morphine but had complaints from other employees about this conduct and did nothing," Levin said. "This type of conduct is not supposed to be tolerated at a place where people are supposed to care for you. There was an atmosphere that was allowed to exist in this nursing home that allowed her to do what she did."

Himebaugh and Whitlock were arrested April 4 on charges of overdosing Cole and three other residents with excessive levels of morphine and unprescribed medication.

Himebaugh, 57, of Lake in the Hills, previously was indicted on six felony charges, including criminal neglect of long-term care residents, distribution of a controlled substance, and obtaining prescription by fraud.

Whitlock also still faces six felony charges of criminal neglect and obstructing justice. The 59-year-old Woodstock resident's attorney is trying to get three of her charges dropped, alleging that the indictment is flawed.

Each of the nurse's charges is a Class 4 felony punishable by between one to three years in prison. Both women remain free on \$50,000 bond in connection with the April cases.

Himebaugh's attorney, Sam Amirante, said his client had not yet been served papers in the wrongful-death complaint.

"If and when she is, I will claim guilty of no wrongdoing," Amirante said. "As far as I'm concerned, there's no evidence of any wrongful death."

Whitlock's attorney could not be reached for comment Friday.

Illinois State Police had started investigating deaths at the 115-bed home at 309 McHenry Ave. after receiving tips from employees. The bodies of three nursing home residents were exhumed, including Cole's.

Authorities have said that Whitlock encouraged Himebaugh to give the drugs to the patients and then directed another employee to destroy medication once police began investigating.

According to Himebaugh's indictment in April, she recklessly gave morphine to Cole on the day of the death "at a time when Cole was unresponsive and exhibiting delayed breathing patterns."

Both pleaded not guilty in April, while Whitlock's attorney argued that state law includes a provision that protects nurses from "angel of death" accusations.

Four days before her death, Cole's health deteriorated unexpectedly. Family members had claimed that her symptoms were consistent with a possible drug overdose.

Cole was in the early stages of Alzheimer's disease when she moved into Woodstock Residence in July 2006.

"It's been a nightmare for Vickie. First she lost her mother, then she had to endure the trauma of exhumation," Levin said. "I think she finally wants to bring this to the light of day and seek compensation for what has occurred. It's a mixture of grief and anxiousness to get this out into the public."

- Northwest Herald reporter Jillian Duchnowski contributed to this report.

What's next

The wrongful-death lawsuit will be served upon the defendants, who have 30 days to respond. A court date then will be set.

Until then, Marty Himebaugh next appears in court Sept. 10 on separate criminal charges from her April arrest.

Penny Whitlock will appear for a hearing Sept. 17 to attempt to persuade the court to drop three of her negligence charges, also from April.

Copyright © 2008 Northwest Herald. All rights reserved.