

# Nursing home patient gets \$4.1M award



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A Cook County jury on Tuesday awarded more than \$4.1 million to the estate of a woman who suffered a stroke and became partially paralyzed while in a nursing home.

Her family's lawsuit against the Bartlett facility Clare Oaks and two of its staff alleged those tending to then 85-year-old Dolores Trendel failed to properly administer and manage her blood-thinning medication, causing her stroke and resulting injuries in March 2011.

Trendel transferred to the home in the northwest suburb for physical therapy in February 2011 after suffering a fractured hip in a fall at home.

According to the lawsuit, Clare Oaks' staff should have been aware that Trendel's primary doctor required her to take Coumadin to thin her blood and help control her atrial fibrillation. She had been taking the medication for about a year before the incident, said Susan Novosad, a partner at Levin & Perconti who represented the estate.

Trendel also required various lab tests to ensure the medication was working effectively.

About three weeks after her transfer, a test result came back indicating Trendel needed more Coumadin to thin her blood.

However, she instead stopped receiving the medication altogether and had gone without it for about two weeks before she was observed experiencing stroke-like symptoms and sent to a hospital.

There, physicians determined Trendel's blood was not properly thinned and confirmed she suffered a stroke.

The order discontinuing the Coumadin was entered by a nurse who reported to Dr. Percival Bigol, Trendel's tending physician at the time. But Bigol's counsel contended that order did not reflect his actual instructions.

"During trial, we made clear that it was not his - that the nurse was mistaken - and that fault in the system allowed the error to go undetected by Dr. Bigol," said Nora & Partners LLP managing partner Robert L. Nora, who represented Bigol. The jury agreed, and did not find Bigol was liable for the patient's injuries.

At trial, Clare Oaks contended Bigol was liable for the incident, as nurses have no control over ordering or discontinuing the medication.

"Because nurses cannot order Coumadin, the nurse took a phone order from the doctor who discontinued Coumadin, and the nurses at the facility relied on the doctor to review the patient's chart thoroughly and to monitor her," said Michael L. Vittori, a partner at Wilson Elser Moskowitz Edelman & Dicker LLP who represented the nursing home. "By not doing so, the doctor did not follow up appropriately, thereby abandoning the patient. She never received Coumadin thereafter because there was no Coumadin ordered thereafter."

Trendel lost use of the right side of her body as a result of the stroke, Novosad said, but she was able to regain some of her abilities after she was sent home.

"She was able to speak but she could never walk, she could never bathe herself; she could never do any of the private things a person does for themselves," Novosad said.

Trendel, who was initially the named plaintiff upon filing suit, died in March 2015 at the age of 89 from complications resulting from the stroke.

The Illinois Department of Public Health conducted an investigation following the incident and "found no fault or finding on behalf of our community," Clare Oaks CEO Beth Welch said in an interview. Welch noted Trendel's incident happened before she became CEO in 2013.

She also defended the quality of the nursing home, stressing that the facility is well-regarded for its nursing care and that the 2011 incident "happened a very long time ago."

Two years after Trendel's stroke, Clare Oaks received the highest rating possible by the Center for Medicare and Medicaid Services and in 2015 became one of 10 nursing homes in the state to obtain outside accreditation for its conformance to international nursing home standards.

"It's not something that's awarded just for showing up," she said. "This is hard to deal with, but I know that the community we have here today and my team can feel confident in who we are and how we care for all of our residents."

After a six-day trial before Cook County Circuit Judge Thomas V. Lyons, the jury awarded the estate \$2 million for Trendel's experienced loss of a normal life, \$100,000 for her disfigurement, \$1 million for her experienced pain and suffering, \$250,000 for her experienced emotional distress and \$511,477 for her medical expenses. It also awarded the estate \$100,000 for her children's loss of society and \$150,000 for their grief and sorrow.

The estate's lawsuit also named Bigol and Michelle Hart-Carlson, the nursing home's administrator at the time. The jury's verdict found each of them them not liable in the incident.

Levin & Perconti partner Margaret P. Battersby Black, who also represented the estate, said the family is relieved the case is over.

"They were very appreciative that the civil justice system worked to its completion and they wanted to see this through for their mom," she said. "They wanted to finish what she started. They believe that their mom would have been very proud of them and satisfied with the jury's verdict."

Levin & Perconti associate Daniel A. Goldfaden also represented the estate.

Nora & Partners partner Patrick J. O'Connor III also represented Bigol.

Michael E. Zidek, who is of counsel at Wilson Elser Moskowitz Edelman & Dicker, also represented Clare Oaks.