

Appellate Decisions of Interest

Hinlicky v. Dreyfuss, Court of Appeals (May 2, 2006).

Guiding Principle: The defendant anesthesiologist was allowed to testify in a medical malpractice action that he relied on guidelines published by the American Heart Association in association with the American College of Cardiology in deciding not to send the patient for a pre-operative cardiac work-up.

Brief summary of the facts: Marie Hinlicky, age 71, underwent an endarterectomy to remove plaque in her carotid artery. Though her surgery was completed successfully, she suffered a heart attack and died 25 days later. Ms. Hinlicky's estate brought a medical malpractice action, alleging negligence on the part of the patient's anesthesiologist, among others.

The case went to trial, where the proof showed the patient had significant blockage of her carotid arteries. Ms. Hinlicky's vascular surgeon recommended an endarterectomy. The defendant anesthesiologist reviewed Ms. Hinlicky's medical history, her chart, laboratory results, EKGs from 1995 and 1996, and two pre-operative nursing assessments. He also examined and interviewed her. He decided not to send her for a preoperative cardiac evaluation based on the type of surgery involved, her history and her functional capacity.

The anesthesiologist testified that he had followed a set of clinical guidelines (algorithm) published in 1996 by the American Heart Association in association with the American College of Cardiology. He incorporated the guidelines into his practice shortly after they were published, because they helped physicians decide "which patient needs to go for a cardiac evaluation . . . and which patient can proceed to the operating room."

The anesthesiologist was permitted to testify that the algorithm was a flow diagram which helped anesthesiologists decide which patients to send to the operating room and which patients to send to a cardiologist. He testified that the algorithm was also available to surgeons, internists and family physicians, and he would consult it for patients like Ms. Hinlicky who were at risk for coronary artery disease to determine the need for cardiac evaluation. The jury unanimously found in favor of the defendants, concluding that they were not negligent in failing to secure a pre-operative cardiac clearance.

Ruling of the court: The Court of Appeals, the highest court in the New York State system, concluded that in this case, the algorithm was properly admitted into evidence because it illustrated the anesthesiologist's decision-making methodology in clearing Mrs. Hinlicky for surgery.

This decision of interest is not an official citation, and should not be cited as such, nor is it intended to provide any legal advice. For the full text of the uncorrected decision, visit the Court of Appeals' website at <http://www.nycourts.gov/ctapps>.