

## **Clogged airway results in brain damage to college student - Nurses say they didn't hear alarm**

### **Jury awards \$20 million plus punitive damages for hospital "coverup"**

A Philadelphia jury awarded a college student \$20 million for brain damage he suffered after nurses at Temple University Hospital failed to respond for several minutes to an alarm that his airway was blocked.

In an additional and extraordinary step for a medical-malpractice trial, the jury in its Oct. 27, 2003 verdict for Hugh B. Gallagher IV also awarded \$15,000 in punitive damages against the hospital for a "coverup" that included concealing and altering medical records in the case.

Shanin Specter, Andrew Youman and Beth Freeman, the Gallagher family's attorneys, said the jury evidently felt the hospital and staff actions after the actual incident were deplorable. "The coverup is always worse than the original act," said Specter.

The case itself was unusual in that Gallagher was admitted to the hospital for self-sustained injuries in May 2000. Nineteen years old and a freshman at the University of Pennsylvania, Gallagher lit himself on fire in a purported suicide attempt.

He was recovering in Temple's intensive care unit when the tracheostomy tube used to help him breathe got clogged with mucus, depriving him of oxygen. Specter estimated the ICU nurses delayed four to six minutes before responding to a monitor alarm. The resulting brain damage left Gallagher able to walk and talk but suffering severe lapses of memory and trouble with learning and motor skills. He is unable to care for himself and may have to be institutionalized for the rest of his life.

The jury in the case evidently saw past the teenager's alleged suicide attempt and burn injuries in handing down its verdict. Gallagher's father, Hugh Gallagher III, a Philadelphia police officer, said his son had been making a solid recovery when the incident occurred at Temple. "My boy doesn't give up," he said.

The jury instead showed greater disdain for the inaction of the nurses – who said they had been busy at the time caring for other patients whose alarms had also sounded – and the fact that records were altered and then concealed by the hospital.

The original copy of Gallagher's hospital flow sheet was withheld from his lawyers until the first day of trial and only then was it discovered that portions had been covered with "whiteout," a liquid cover, and written over apparently to make it appear that less time had elapsed before nurses attended to Gallagher.

The changes in the medical record might never have been revealed had Specter and Gallagher's parents agreed to Temple's settlement offer of \$3 million. The offer, made during jury selection, was rejected.

In a closing speech, Specter told the jury that Temple had engaged in a "conspiracy ... to hide the truth" by altering the record and keeping the original copy from the Gallaghers for more than three years. "There was an attempt ... to deny Hugh Gallagher his lawful day in court."