



## NURSE IS CHARGED IN DEATH OF PATIENT LEGAL ACTION UPSETS STAFF AT ST. MARY'S

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Nursing and hospital officials were outraged Thursday after the state filed a felony charge against the nurse whose medication error caused the death of a teenager at St. Mary's Hospital in July.

It's the first time a health-care worker has been criminally charged for an unintentional error in Wisconsin, the officials said. They said the filing could make it more difficult to recruit and retain nurses, already in short supply.

An official with the state Department of Justice, which charged Julie Thao with neglect of a patient causing great bodily harm, defended the move.

"The circumstances of the case go well beyond a simple mistake," said department spokesman Mike Bauer. He said Thao violated several hospital and nursing rules.

Thao, 41, of Belleville, is scheduled to appear Thursday in Dane County Circuit Court. If convicted, she faces a \$25,000 fine and up to three years in prison and three years of extended supervision.

Thao, who no longer works at St. Mary's, was caring for 16-year-old Jasmine Gant of Fitchburg on July 5 as Gant was about to deliver a baby.

She mistakenly gave Gant an epidural anesthetic intravenously, a state investigation previously revealed. Gant was supposed to receive penicillin through the IV for a strep infection. An epidural is supposed to be injected near the spine to numb the pelvic area during birth.

Gant died shortly after the error. Her baby boy, delivered by emergency Caesarean section, survived.

According to the criminal complaint, Thao:

Improperly removed the epidural bag from a locked storage system. Gant's physician, Dr. Joseph Fok, never ordered the epidural.

Didn't scan the bar code on the epidural bag, which would have told her it was the wrong drug.

Ignored a bright pink label on the bag that said in bold letters, "FOR EPIDURAL ADMINISTRATION ONLY."

Disregarded hospital and nursing rules in failing to confirm a patient's "five rights" when receiving drugs: right patient, right route, right dose, right time and right medication.

"The actions, omissions and unapproved shortcuts of the defendant constituted a gross breach of medical protocol, resulting in the death" of Gant, wrote Gregory Schuler, an investigator with the justice department's Medicaid Fraud Control Unit.

#### \ Investigation continues

According to a written statement and an interview with a state investigator, Thao said she got the epidural bag to show Gant what it looked like. She acknowledged she "had no business getting it out" of the storage locker.

Thao said Gant started crying and panicking; others in the room that day disagree. Gant's emotional state caused Thao to "scoop up" the wrong medication bag, she said.

"I allow priority for compassion to override the need for detail," Thao said.

An investigation continues into whether action should be taken against Thao's nursing license, said Steve Gloe, general counsel for the Wisconsin Department of Regulation and Licensing.

Thao and her attorney, Steve Hurley of Madison, couldn't be reached for comment Thursday.

Shortly after Gant's death, regulators threatened to revoke St. Mary's license and Medicare contract. They cited the hospital with three violations of federal regulations and three violations of state regulations.

After the hospital said it was re-educating nurses and updating policies, the regulators cleared the hospital from penalties.

#### \ Charge called 'cruel'

In a prepared statement Thursday, St. Mary's spokeswoman Sarah Carlson said, "We are very saddened by this development and are sorry to see criminal charges filed against the nurse."

Dana Richardson, vice president for quality at the Wisconsin Hospital Association, said in a prepared statement that "it is cruel to allege that this mistake constituted criminal conduct."

The charge "accomplishes nothing other than to compound the anguish of this situation," she said.

In an interview, Richardson said the charge could have a chilling effect, causing people to be less likely to go into nursing or other health-care fields. "This sends the message that you are at risk for criminal charges if you make an unintentional error," she said.

The Wisconsin Medical Society, the state's doctor group, also opposed the charge, saying it could result in decreased access to health care, especially in underserved areas.

Gina Dennik-Champion, executive director of the Wisconsin Nurses Association, said she was "very concerned" about the charge.

Many nurses are already stressed dealing with today's sicker patients, new technology, increased paperwork, staff shortages and requests for overtime, she said.

"This is one more blow," she said. "It certainly isn't going to help morale."

The charge could also cause a setback in the trend within the health-care system toward more transparency about mishaps, Dennik-Champion said.

Rita Vosters, a clinical associate professor of nursing at UW-Madison, said she has talked about the Gant incident in her classes this year.

"Hopefully it will make nurses more careful with medications," she said.

The criminal charge "will be difficult on nurses," Vosters said. "Most nurses do the best job they can ... But sometimes mistakes happen."