

page 2
Talk to a lawyer quickly if you have a medical injury

page 3
Hospital sued for outsourcing medical transcription

Skechers 'toning shoes' are blamed for injuries

Hair-loss drugs may have serious side effects

page 4
Health care 'surrogate' can't waive the right to sue in court

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Legal Matters®

Defibrillators in public places can prevent heart attack deaths

Sudden cardiac arrests kill as many as 400,000 people a year in the U.S., according to the American Heart Association. That's more than the number of people who die each year of diabetes, Alzheimer's disease, and accidents combined.

But many of these deaths could be prevented with automated external defibrillators, or AEDs.

AEDs are portable electronic devices that can treat a person who is in sudden cardiac arrest due to arrhythmia, or irregular heartbeat. An AED delivers an electric jolt that allows the heart to reestablish its rhythm, potentially saving the victim's life.

And the great thing about AEDs is that they're not enormously expensive or complicated. They usually cost less



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than \$1,000, they're small and portable, and they're easy for anyone to use with simple training.

Because AEDs are so valuable, all 50 states now have regulations requiring defibrillators to be available in certain public places. Some states require all physical fitness facilities to have at least one AED on the premises. Others require them to be available at all school-sponsored events. Some even require them in dentists' offices.

The truth is, it's just common sense for defibrillators to be available anywhere that large numbers of people regularly congregate – such as concert halls, airports and airplanes, schools and colleges, convention centers, sports stadiums, government buildings, amusement parks, factories and office buildings, and shopping malls.

continued on page 2

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Talk to a lawyer quickly if you have a medical injury



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In many states, the time period during which a person is allowed to file a lawsuit – known as the “statute of limitations” – is very short for medical injuries.

Some states have created very short periods as a way to reduce medical malpractice cases. But this is a problem, because it’s not always easy for someone who has experienced a medical injury to act quickly, or even to be sure that the harm was a medical professional’s fault.

For this reason, it’s very important to speak to an attorney quickly if you think you or someone you know may have suffered a medical harm. Medical results vary, and it might turn out that no one did anything wrong...but if someone *did* do something wrong, waiting too long to find out could mean that you’ll be unable to obtain the compensation you deserve.

On the other hand, don’t be afraid to speak with an attorney even if it’s been a long time since an

injury, because only an attorney can fully investigate a case and know for certain if it’s too late to seek justice.

For instance, in a recent case in California, a hospital patient fell and was seriously hurt when her bed rail collapsed. A judge threw out her lawsuit against the hospital, because it took her a little over a year to file her claim, and in California the statute of limitations for medical malpractice cases is one year.

But an appeals court sided with patient and allowed her to sue. Why? Because even though the injury occurred to a patient in a hospital, this wasn’t really a “medical malpractice” lawsuit. The woman didn’t claim that a nurse or a doctor treated her improperly – she merely claimed that the hospital was careless in providing her with an unsafe piece of equipment, and that’s no different from a lawsuit against a car company or anyone else who sells an unsafe product.

Therefore, the woman’s claim wasn’t filed too late.

It’s just common sense for there to be defibrillators in places where large numbers of people regularly congregate. In fact, there may be a legal duty to make them available if the cost is small compared to the chances of saving a life.

Defibrillators in public can prevent heart attack deaths

continued from page 1

It makes so much sense, in fact, that many courts are now deciding that there’s a legal responsibility to have an AED on hand if the cost is relatively negligible compared to the likelihood of saving a person’s life.

One of the first of these cases happened several years ago when the family of a 20-year-old student successfully sued the University of Pittsburgh after their daughter suffered brain damage from a cardiac arrest. The campus police had no AED on hand when she suffered arrhythmia and collapsed in class, despite the fact that the university had required all police to carry them. The university chose to settle the case with the family rather than go to court and let a jury hear what happened.

Of course, it’s not enough just to have an AED on hand. It’s also critical to make sure that it’s in working order, that it’s accessible, and that someone knows how to use it.

For instance, AEDs operate on batteries, so it’s important to make sure the batteries don’t expire. The family of an airline passenger recently sued the Philadelphia International Airport because two

AEDs that could have saved his life failed due to dead batteries.

In Rhode Island, a high school student died of sudden cardiac arrest during baseball practice. The school had an AED ... but no one was able to use it because it was locked up in the school nurse’s office.

And in San Jose, California, a 17-year-old hockey player collapsed and died while playing at a municipal ice rink. The rink had an AED, but none of the arena staff told the coaches or officials about it, and there were no employees there who had been trained in how to use it.

Successful lawsuits for not having an AED available have been brought against the Morial Convention Center in New Orleans and against the Busch Gardens theme park in Tampa, Florida.

Lawsuits such as these help the grieving families who have lost loved ones, but they also serve a larger purpose, which is getting the word out to other institutions in society about the importance of making this medical equipment available. This is a great example of how the justice system doesn’t just compensate people for losses, but also prevents injuries and saves lives.

Hospital sued for outsourcing medical transcription

Sharron Juno was killed by a typo.

The lifelong diabetic went to an Alabama hospital with complications. After her release, her family put her in a rehabilitation facility for skilled nursing care, as directed by the treating doctor.

The doctor also dictated that the facility administer an insulin dosage of 8 units. But when the doctor's dictation was transcribed, it came back as "80 units." The rehab facility administered the incorrect dosage, and Sharron died as a result.

What happened?

It turned out that the hospital had farmed out its transcription function to an outsourcing company. That company, in turn, subcontracted the work to a company in India, which sent the work to another Indian subcontractor. That's where the fatal error occurred.

A jury awarded a very large verdict against the hospital, finding that it had carelessly outsourced the work in order to save a few pennies per line of transcription.



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Of course, outsourcing work to other countries has become a very popular way for companies to save money. That's not necessarily a bad thing in itself, but a company that outsources work needs to remember that it can't also outsource the responsibility to make sure that the work is done right and to appropriate quality standards...particularly when lives are at stake.

Skechers 'toning shoes' are blamed for injuries

Can you really get in better shape just by wearing a particular pair of shoes?

The "Shape-ups" and "Tone-ups" shoes made by Skechers claimed something like that. With their special "rocker-bottom" soles, the shoes were marketed as a way that people could lose pounds while toning up their legs and abs just by walking around in them.

These turned out to be inflated claims, and last year Skechers had to settle charges of deceptive advertising brought by the Federal Trade Commission.

But now it turns out that the shoes might even be downright harmful.

A number of lawsuits have been filed against the company asserting that the shoes are causing foot, ankle and leg injuries, including stress fractures and ruptured tendons. Others allege that the special soles alter a person's gait, making the wearer unstable and prone to falls.

If you have a pair of these shoes, you might want to speak to your doctor before continuing to wear them.

Drugs for hair loss may have serious side effects

Proscar and Propecia – two popular drugs that are used to prevent hair loss and to treat enlarged prostate – can have serious side effects, according to a new study.

The possible side effects include sexual problems, such as erectile dysfunction. Neurological side effects, including depression and anxiety, are also possible.

That's because the active ingredient in these drugs, finasteride, apparently blocks an enzyme needed for sexual and brain functions.

What's worse is that some of these side effects can apparently persist even after the patient stops using the product – even though the products' labels had stated that any such effects go away when the drugs are discontinued.

As a result, the Food and Drug Administration has issued a safety alert, and the company that manufactures the drugs has changed its warning label to inform patients of the problem.

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Health care ‘surrogate’ can’t waive the right to sue in court



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When people enter a nursing home, it’s very common for the home to require them to sign an “arbitration” agreement. This agreement says that if the patient later has any sort of dispute with the facility, it will be resolved by a private third party.

If you sign this kind of agreement, you’ve waived your right to go to court – with all the legal protections that going to court can bring.

Of course, many patients entering nursing homes are unable to make decisions for themselves, and they have a health care surrogate making decisions on their behalf. But can a surrogate sign away a patient’s right to go in front of a judge and jury?

According to a recent decision from West Virginia, the answer may be “no.”

In that case, a nursing home patient died

10 months after she was admitted. Her family claimed in a lawsuit that the nursing home was responsible for her death, asserting that she suffered bedsores, infections, dehydration and malnutrition as a result of neglect.

The nursing home tried to get the case thrown out of court, arguing that during the admission process, the patient’s daughter, who was acting as her health care surrogate, had signed an arbitration agreement.

But the West Virginia Supreme Court sided with the family. The court said that while a health care surrogate is empowered to make *medical* decisions for another person, a surrogate does not have the right to make legal or financial decisions. Therefore, even though the daughter signed the arbitration agreement, the mother was never bound by it, and thus the family could sue.