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Silver Spring, Maryland 20902  
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June 26, 2006

Delmarva Foundation  
9240 Centreville Road  
Easton, Maryland 21601

To Whom It May Concern:

This is in reference to a complaint I filed pertaining to my late father, Israel Neustadter, and the treatment he received at Holy Cross Hospital.

In a June 14<sup>th</sup> letter I was informed of your determination that the care he received met professionally recognized standards of health care. I am concerned that you could reach this apparently unequivocal finding without even interviewing me, given the significant inconsistencies in my father's case. Gilbert Gaul of the Washington Post broached the possibility of my appealing your findings. If it is at all possible I ask you to please allow me to do so.

There are additional medical records that I only became aware of within the past month, and I think they could influence the outcome of your determination upon review:

1. A DNR form written by Dr. Ball on 3/16/03. This form was created without my knowledge or consent. Dr. Ball was unauthorized to sign this form as he was not the attending physician. Although I am gratified that it mandated intubation pre-arrest, the form was in any case void upon my father's transfer from the ICU on 3/22/03. My father was clearly full-code, yet the hospital informed my attorney on 5/25/06 that he was considered "DNR" and sent the attached form. I am concerned about the possibility that the hospital may have provided you with the same erroneous information.
2. From 3/17/03 to 3/20/03 the nurse's cardex lists ceftriaxone as administered, but the medication list shows no ceftriaxone ordered. My father may have been receiving levaquin alone - at 1/2 the standard dose, during that time. As stated in my original complaint there are other discrepancies pertaining to antibiotic delivery. After being admitted with a white count of 36k, the dosage of levaquin was erroneously cut and an ominously high count of 20k was tolerated throughout the hospitalization. There was no attempt to revisit the antibiotic regimen despite excellent kidney function, nor was an infectious disease consult ever considered to try to lower the white count. A sputum C&S wasn't even ordered until the 3<sup>rd</sup> day of hospitalization.

I understand that you are not at liberty to release specific information pertaining to your analysis of my father's case, but medical issues aside, I wish to strongly reiterate the following:

- In the State of Maryland, the Maryland Health Care Decisions Act is not merely an adjunct to the standard of care; it *is* the professionally recognized standard of care.
- You will find no clearer example of a situation in which the provisions of the HCDA must come into play than in my father's case. Dr. Kariya, the pulmonologist who found him in respiratory distress accurately captured the moment (from his perspective) by noting "Patient's breathing tenuous and son unrealistic. No new suggestions." He was documenting the fact that he was confronted with a decompensating patient and a surrogate with whom he was at odds.
- He was clearly required to either resolve his differences with me (perhaps with assistance from the ethics committee,) obtain the attending physician's co-signature declaring intubation to be medically ineffective (and offer it until another doctor could be brought in,) or to intubate my father per our wishes.
- He did none of the above; he just walked away, leaving his patient in a life-threatening situation.

The events cited above are not subject to dispute. Dr. Kariya acknowledged during an 11/30/2005 meeting that he saw no need to speak with me about intubation because he simply didn't feel that treatment was appropriate. By way of analogy he said that if I would have desired that a craniotomy be done on my father, he would not have been required to converse with me about that either.

This illustrates a wanton disregard of both ethical responsibilities and of Maryland law. It clearly does not meet the professionally recognized standard of care.

I am asking you to please reconsider this complaint in light of the above. If you need any additional information I would welcome the opportunity to talk with one of your investigators.

Sincerely,



Alexander H. Neustadter

Enclosure