

Expert's testimony on patient's transfer to the ICU improperly excluded

Under Arizona's Medical Malpractice Act, a patient must present evidence to establish the applicable standard of medical care, and then show that the health care provider fell below that standard. In addition, the patient must show that the deviation from the standard of care caused the claimed injury.

In the case of *Craft v. Trainor*, the wife of a deceased patient attempted to provide such evidence from medical experts in a case of [hospital malpractice](#), yet the trial court excluded the evidence. Fortunately, the Arizona Court of Appeals reviewed this decision, finding that the important testimony was improperly kept from the jury.

Patient in distress not transferred to the ICU

The patient underwent an uneventful, almost six-hour back surgery. He was transferred to a general care room for a planned stay of three to seven days. The patient was prescribed pain medications, including Dilaudid, a strong narcotic.

Late the next night, the patient developed pneumonia and began experiencing a variety of respiratory problems. After a second incident of agitation, a duty nurse called a "Code Green" to bring immediate assistance. A bit later, the patient reported excruciating pain, and was given an additional dose of the strong narcotic. Neither the doctor nor any member of the staff ordered the patient to be transferred to the Intensive Care Unit, despite the Code Green incident. Later that evening, the patient's heart rate dropped suddenly and he stopped breathing. Despite emergency treatment, the patient died.

The patient's wife brought a [wrongful death](#) and medical malpractice suit and sought to admit expert testimony that the doctor and hospital staff had failed to provide proper care because the patient was not transferred to the ICU after the Code Green incident.

The Superior Court excluded substantial portions of the evidence because the wife had allegedly presented no non-speculative expert testimony on the failure to transfer the patient to the ICU. After a jury trial, the jury found in favor of the doctor and hospital and the patient's wife appealed.

Should the expert testimony have been admitted?

The Arizona Court of Appeals noted that prior to the trial, in deposition testimony, a doctor had provided expert testimony that the applicable standard of care required that the patient should have been transferred to the ICU just after the Code Green incident.

Although the expert's pre-trial deposition was not a model of clarity, the expert's opinion, to a reasonable degree of medical certainty, was that the patient would have survived if he had been transferred to the ICU. Therefore, the testimony should have been admitted as to the cause of the patient's death. It should have been left to the jury to weigh and assess the accuracy and reliability of the testimony.

Here, the inclusion of this evidence could have changed the jury's verdict, and so the verdict against the patient's wife was reversed. The wife was granted a new trial in which she would be able to present the evidence.

Legal and medical expertise

Medical experts can be crucial to making your medical malpractice case. This is why you should choose a law firm that carefully selects medical experts with the highest qualifications. You should seek an experienced and aggressive medical malpractice attorney who will provide both the legal expertise and medical experts needed to hold the negligent parties accountable for the injuries or loss you have suffered.