

Tove Zertuche Chapter 74 report

David E. Mansfield, M.D.

1172 Shoshone Trail

Alto, NM 88312

409-782-3878

dmansfieldmd@aol.com

January 14, 2017

Jeff Diamant
Ramsey Law Group
7521 Westview Drive
Houston, TX 77055

RE: Tove Zertuche

Dear Mr. Diamant:

At your request, I have reviewed medical records on Tove Zertuche from The Oaks at Brookshire and Memorial Hermann Hospital. I have also reviewed the Plaintiff's Original Petition and Death Certificate and updated my report. I am qualified to render the opinions expressed in this report based on my education, training and experience. I am a Board Certified Family Practice Physician and Board Certified Wound Care Physician practicing in Albuquerque, New Mexico. Currently I attend at Presbyterian Hospital and UNM Sandoval Regional Medical Center and previously I have attended at Plains Regional Medical Center, Clovis, NM, Eastern New Mexico Medical Center, Roswell, NM and Memorial Hermann Baptist Hospital and Christus St. Elizabeth Hospital, Beaumont, Texas. I have over 36 years of experience treating nursing home, skilled nursing facility, and hospital patients such as Tove Zertuche and currently manage the medical care of patients such as Tove Zertuche in facilities in New Mexico. Previously, I have been a nursing home and hospitalist medical director. I have been and am currently the attending physician for patients such as Tove Zertuche in New Mexico facilities.

Tove Zertuche was a 69-year-old female when she was admitted to The Oaks at Brookshire on July 8, 2011, because of dementia with psychosis and behavioral disturbance. She was placed in the Secure Unit at The Oaks at Brookshire. Tove Zertuche had a past medical history of seizure disorder, Alzheimer dementia, and hypertension. Ms. Zertuche was noted to have a high risk for falls on admission. Her fall risk remained high throughout her stay at The Oaks at Brookshire. Ms. Zertuche suffered multiple

falls during her stay and a care plan was written to reduce her risk for falls. The Minimum Data Set (MDS) indicated that Ms. Zertuche received one person assistance with all transfers and ambulation. During 2014, Ms. Zertuche suffered at least 5 falls some with injuries which required emergency room treatment. On October 4, 2014, Ms. Zertuche was found by staff in her room at the foot of the bed on the floor, unresponsive with bruising to her left forehead. Tove Zertuche was transported to Memorial Hermann Hospital where she was found to have a massive subdural bleed with compression of the brain with herniation. Ms. Zertuche remained comatose and was placed on comfort care by her family and expired on October 6, 2014, with the immediate cause of death noted to be blunt force head trauma with right subdural hematoma.

I am familiar with the standard of care for dementia patients such as Tove Zertuche. More specifically, I am familiar with the standard of care for prevention of falls and injuries in patients who have a high fall risk. As a result of my experiences, education and training I am knowledgeable of the standard of care for physicians, Directors of Nurses, nurses, administrators and staff for the care of patients such as Tove Zertuche and the effects and harm caused to these patients when standards of care are violated for patients such as Tove Zertuche. Daily I work with nurses insuring that quality care is delivered to patients, especially those patients whom are at risk for falls and injuries, and that they are properly evaluated and treated to eliminate any preventable harm and injury. Daily I visit with nurses to review patient status, risks, care plans and orders to be sure quality care is delivered and risks are planned for to eliminate any preventable harm and injury in patients such as Tove Zertuche.

The standard of care for ALT Brookshire, Advanced Living Tech, Edward Partridge, Stephen Muse, Kim Beckstead, Brookshire TX SNF Management, Southern TX SNF Management, Elie Deitsch, Philip Friedman, Anitra Davis, RN, Trish Laird and The Oaks at Brookshire generally requires that the staff:

1. Perform ongoing nursing assessments on Tove Zertuche to identify actual and potential problem areas and to establish a baseline as to Ms. Zertuche's health status;
2. Make appropriate nursing diagnoses (e.g., Alteration in Comfort, Alteration in Hydration, Alteration in Skin Integrity, Alteration in Elimination Pattern, Potential for Falls, etc.) based on the ongoing assessments;
3. Develop a Comprehensive Plan of Care which sets forth identified (actual or potential) problem areas, sets short

Tove Zertuche Chapter 74 report

and long term goals for positive outcomes, and outlines specific nursing interventions designed to prevent adverse outcomes from known problem areas;

4. Implement the Plan of Care on Tove Zertuche's behalf;
5. Evaluate Tove Zertuche's response to the implementation of the Plan of Care through ongoing assessments; and,
6. Update the Plan of Care consistent with Tove Zertuche's response.

The standard of care for ALT Brookshire, Advanced Living Tech, Edward Partridge, Stephen Muse, Kim Beckstead, Brookshire TX SNF Management, Southern TX SNF Management, Elie Deitsch, Philip Friedman, Anitra Davis, RN, Trish Laird and The Oaks at Brookshire with regards to Tove Zertuche required that:

1. Adequate care plans be in place and followed to prevent falls and injuries such as the use of bed and chair alarms.
2. In a patient who has behavioral problems and is at risk for falls and injuries whose behavior cannot be controlled in a secure unit, that patient be transferred to a higher level of care such as a geriatric psychiatric unit for their safety.
3. In a patient with behavioral problems who is at risk for falls and injuries, a sitter or family member be used to attend to the patient for their safety and to prevent falls and injuries.

In my opinion, ALT Brookshire, Advanced Living Tech, Edward Partridge, Stephen Muse, Kim Beckstead, Brookshire TX SNF Management, Southern TX SNF Management, Elie Deitsch, Philip Friedman, Anitra Davis, RN, Trish Laird and The Oaks at Brookshire violated the standard of care with regards to Tove Zertuche. When Tove Zertuche was admitted to the secure unit at The Oaks at Brookshire on July 8, 2011, it was because of dementia with behavioral problems. On admission the staff found that Ms. Zertuche was at a high risk for falls. In fact, the Minimum Data Set noted that Tove Zertuche needed to be assisted with all activities out of bed including transfers and ambulation. It is well known that patients with dementia do not know their physical limitations and thus place themselves at risk for falls and injuries. It is very important that the care plan sets out interventions to be taken to prevent falls and injuries in patients with dementia, as they are not able to follow safety instructions such as calling for staff assistance before changes in position or ambulation. An effective care plan needs to be written and followed which might include interventions such as the use of bed and chair alarms to notify the staff that the patient needs assistance or the use of a

sitter or family member to attend to the patient's safety. When there are multiple falls which are not prevented at the facility, especially if there are injuries, that patient needs to be transferred to a higher level of care such as a geriatric psychiatric unit for their safety. However, The Oaks at Brookshire did not develop and implement an effective care plan to prevent falls and injuries, a violation of the standard of care. Even though the Minimum Data Set noted that Ms. Zertuche received staff assistance when transferring and ambulating, the medical record notes multiple instances where she was ambulating the halls of The Oaks at Brookshire unattended, a violation of the standard of care. Thus it is no wonder that Tove Zertuche suffered many falls while at The Oaks at Brookshire with multiple injuries including lacerations which required trips to the emergency room, a violation of the standard of care. Even after these incidents, The Oaks at Brookshire did not develop an effective care plan to prevent further falls and injuries, a violation of the standard of care. Even after these incidents, The Oaks at Brookshire did not develop an effective care plan requiring the use of bed and chair alarms to alert the staff that Ms. Zertuche needed assistance to prevent further falls and injuries, a violation of the standard of care. Even after these incidents, The Oaks at Brookshire did not develop an effective care plan with the use of family members or sitters to attend to Ms. Zertuche's safety and to prevent further falls and injuries, a violation of the standard of care. Steps were never taken to transfer Ms. Zertuche to a higher level of care for her safety such as a geriatric psychiatric unit, a violation of the standard of care. Instead, Tove Zertuche was left unprotected until she fell on October 4, 2014, suffering a massive subdural hematoma which rendered her deeply comatose and caused a brain herniation and her death.

If The Oaks at Brookshire had written and followed an effective care plan to prevent falls and injuries, Tove Zertuche would not have suffered multiple falls and a massive subdural hematoma which caused her death. If The Oaks at Brookshire had used bed and chair alarms to notify the staff that Tove Zertuche needed assistance, she would not have suffered multiple falls and a massive subdural hematoma which caused her death. If The Oaks at Brookshire had used family members or sitters to attend Tove Zertuche, she would not have suffered multiple falls and a massive subdural hematoma which caused her death. If The Oaks at Brookshire had arranged for transfer of Tove Zertuche to a geriatric psychiatric unit or a facility such as a hospital with a higher level of care to prevent falls, she would not have

Tove Zertuche Chapter 74 report

suffered multiple falls and a massive subdural hematoma which caused her death.

In conclusion, it is my opinion based on a reasonable degree of medical probability that neglect of Tove Zertuche by ALT Brookshire, Advanced Living Tech, Edward Partridge, Stephen Muse, Kim Beckstead, Brookshire TX SNF Management, Southern TX SNF Management, Elie Deitsch, Philip Friedman, Anitra Davis, RN, Trish Laird and The Oaks at Brookshire caused her to suffer multiple falls with injuries, a massive subdural hematoma which are the proximate causes of much pain and suffering and her death. If the standard of care as outlined above had been followed by The Oaks at Brookshire, Tove Zertuche would not have suffered multiple falls and injuries which caused her much pain and suffering, a massive subdural and her death.

If you have any questions please do not hesitate to call. I reserve the right to amend my report if further information becomes available.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Mansfield". The signature is stylized with a large, looped initial "D" and a horizontal line extending to the right.

David Mansfield, M.D.