PLR

ANONYMIZED TIER 2 - FOCUSED EVENT REPORT (Actual Case)

Contents

I. Timeline

Admission–Discharge	Facility	Admission Reason
July 11 to October 4, 20XX	Long Term Care Facility	Returned to SNF post-hospital
October 4-7, 20XX	Acute Care Hospital	Pneumonia, Covid
October 7 to November 15, 20XX	Long Term Care Facility	Returned to SNF post-hospital
November 15-18, 20XX	Acute Care Hospital	Respiratory symptoms
November 18 to December 23, 20XX	Long Term Care Facility	Returned to SNF post-hospital
December 23, 2024 to January 20, 20XX	Acute Care Hospital	Aspiration leading to death
January 20-26, 20XX	Inpatient Hospice	Hospice care and death

II. Merit Analysis

SUMMARY

On December 23, 20XX, Mr. J, a resident of Long Term Care Facility, aspirated mashed potatoes during dinner and subsequently suffered respiratory failure, requiring emergency intubation and hospitalization. Despite aggressive intervention, the aspiration event caused significant hypoxic injury, necessitating transfer to hospice care. He died on January 26, 20XX, from complications related to the aspiration.

DUTY

As a skilled nursing facility, Long Term Care Facility had a statutory and regulatory duty of care to:

- Monitor for changes in condition (42 CFR §483.25).
- Ensure residents are supervised and assisted to prevent accidents (42 CFR §483.25(d)).
- Implement and follow care plans including dietary orders, feeding instructions, and aspiration precautions based on individual assessments.
- Maintain accurate, timely, and complete medical records (42 CFR §483.70(i)).
- Ensure that staff, including agency staff, are trained and competent in residents' care needs (42 CFR §483.35, §483.95).

Mr. J was a dependent feeder with advanced dementia, dysphagia, and physical rigidity. Feeding instructions in 20XX documented that he required:

- 1:1 assistance,
- Small ½ teaspoon bites,
- Alternating tastes and textures,
- Head positioning supports at times,
- Close observation for signs of aspiration.

BREACH

Numerous breaches of duty are evident:

A. Inadequate Supervision and Feeding

- On 12/23/XX, Mr. J aspirated a large quantity of mashed potatoes while under facility care.
- No documentation exists identifying who fed the patient, what precautions were taken, or whether established feeding guidelines were followed.
- Feeding Mr. J without adhering to documented safety protocols (e.g., pace, posture, bite size) likely caused or contributed to the aspiration.

B. Lack of Clinical Response and Documentation

- Vital signs showing respiratory distress (Sat 72%) were not charted until hours later, at 2:42 AM on 12/24/XX.
- No change in condition documentation, physician notification, or clinical notes were entered by staff in the hours surrounding the aspiration.
- The only medical record reference to the event is from EMS, not the facility.

C. Failure to Notify Provider and Coordinate Care

- The verbal order for transfer to Acute Care Hospital is dated December 26, 20XX, three days after the event.
- Interfacility documentation provided to EMS was incomplete, lacking any written record of the aspiration or emergency intervention.
- There is no evidence in the medical record that the family of Mr. J was notified of the event.

D. Post-Discharge Falsification and Inaccurate Charting

- Medications (e.g., trazodone, aricept, divalproex) and wound care were documented as given after Mr. J had already been transferred and intubated at Acute Care Hospital.
- These late entries undermine the integrity of the medical record and may represent chart falsification.

E. Staffing Deficiencies

- Chart review shows 30% or more of staff on duty were agency staff, who may not have been properly trained in Mr. J's care plan or dysphagia precautions.
- There is no evidence that feeding assistance was provided by trained personnel on 12/23/XX.

CAUSATION

There is direct clinical evidence that the aspiration caused catastrophic injury:

- EMS and Acute Care Hospital ED staff documented potato aspiration with oxygen saturation in the 50s, labored breathing, and copious food particles removed from airways.
- ED bronchoscopy revealed massive food material (potatoes) in both bronchial trees.
- Acute Care Hospital and EMS records explicitly note staff at Long Term Care Facility reported choking on mashed potatoes prior to loss of consciousness.
- No evidence of pre-existing acute respiratory illness is documented immediately prior.

Given the timing and extent of airway obstruction, it is medically probable that the aspiration occurred at Long Term Care Facility and caused Mr. J's respiratory failure and death.

DAMAGES

- Mr. J endured painful respiratory distress, invasive intubation, and terminal decline over a month before death.
- Emotional trauma to family members due to preventable harm.
- Potential survival or improved quality of life was likely if aspiration precautions had been followed.
- Facility charting irregularities may further support claims for punitive damages or regulatory sanctions.

CONCLUSION

This case presents strong evidence of medical negligence. The facility failed to:

- Adhere to dietary and dysphagia precautions;
- Recognize or respond to a critical aspiration event;
- Notify providers in a timely manner;
- Provide accurate, contemporaneous charting;
- Assign appropriately trained staff.

The aspiration event was foreseeable, preventable, and directly caused the patient's death.

II. Aspiration Timeline

DATE	TIME	EVENT	REFERENCE PAGE
12/22/20XX	10:07 AM	Nurse performed Covid, pain, and antidepressant side effects screen	p. 1000
	10:09 AM	Given Juvex nutritional supplement	P. 1000
	10:17 AM	Given oral medications, wound care orders for left hip pressure ulcer	p. 1000
	11:38 AM	Aquaphor lotion to feet, repositioned	p.1000
	2:15 PM	given oral medications, wound assessment	p. 1000
	3:13 PM	Phone Order for valproic (misspelled in the chart) acid level. This is a medication used to prevent seizures and to prevent violent or aggressive behaviors.	p. 1062
	3:18 PM	Valproic acid level both ordered and discontinued	p. 1088
	3:19 PM	Vital signs: 112/71, HR 94, RR 19, Sat 96%	p. 1103
	7:55 PM	Covid, antidepressant side effect, and pain screens done, given medications and Juven supplement	p. 1044
	8:22 PM	given oral medications	p. 1044
12/23/20XX	9:52 AM	Vital Signs: 114/63, HR 93, RR 20, Sat 97% - not charted until 1631, pain, antidepressant side effect, and covid screens done, given Juven nutritional supplement	p. 1013
	1:52 PM	given oral medications	p. 1104
	6:19 PM	Covid, antidepressant side effect, and pain screens done, given medications and Juven supplement, aquaphor ointment to feet	p. 1106
	7:00 PM	Vital signs: 153/100, HR 56, RR 24, Sat 72% - charted at 0242 12/XX/XX	P. 1106

	7:15 PM	Ambulance arrival to Long Term Care Facility - Patient is found laying on a facility bed in semi fowlers (sitting up in bed) position. Patient is not conscious. Patient has rapid labored breathing. **Staff reports patient is on a puree diet and aspirated mashed potatoes.** Staff suctioned the patient's mouth and did deep suction but were unable to clear the airway. The patient became unresponsive, staff placed the patient on 15 liters per minute of oxygen via non rebreather with no improvement. BP 142/85 - HR 73 - Sat 55% on O2 15 liters per minute.	Acute Care Hospital p. 385-386
	7:24 PM	Intubated by paramedic at bedside at Long Term Care Facility	Acute Care Hospital p. 385-386
	7:33 PM	Ambulance Handoff to Acute Care Hospital - BP 160/89, HR 108, Sat 80%	Acute Care Hospital p. 385-386
	7:34 PM	**Registered at Acute Care Hospital**	Acute Care Hospital p. 370
	7:51 PM	ER physician - "Reportedly **aspirated potatoes** at the assisted living facility, severe hypoxia in the 50s to 60s at the facility, minimally responsive with intact gag reflex on EMS arrival, in severe respiratory distress" "**Evidence of aspiration around the mouth**. No visible signs of head or facial injury" "Coarse breath sounds through bilateral lung fields with agonal respiration, severely diminished, assisted with BVM. Expiratory wheezing in the upper lung fields" "unresponsive" "Notes: Procedure ETT for nasopharyngeal tube exchanged, placed by EMS pre-hospital, **copious amount of potatoes suctioned** during intubation"	Acute Care Hospital p. 370
	8:47 PM	Long Term Care Facility nurse documents administration of trazodone, senna, mirtazipine, aricept, and divalproex	p. 1112
	9:00 PM	The patient underwent a bronchoscopy with therapeutic suction of aspirated food contents. **Significant amounts of what is presumably mashed potato was suctioned from both the left and right bronchial trees.**	Acute Care Hospital p. 406
	11:26 PM	Long Term Care Facility nurse documents they turned, barrier cream applied, wound care performed, skin assessed	p. 1022

	4:30 AM	Patient is nonambulatory, needs to be lifted into a wheelchair but can sit in a wheelchair. Is a one-to-one feed. **Patient is known to have had dementia since 58 and has had a progressively declining course.**	Acute Care Hospital p. 407

III. Dietary Orders and Speech Therapy

DATE	Order	Speech Therapy Notes	Source
October 14, 20XX		Covid admission to hospital, now on oxygen. Reassessed - no change in diet Using verbal, tactile, and sensory cues, alternating taste and textures to ensure safe swallowing, requires support to maintain neutral position for feeding	P. 864
December 2, 20XX	Regular diet dysphagia puree, thin liquids	Re-evaluated after aspiration pneumonia in November	p. 1065
December 18, 20XX	Juven 4 ounces twice daily	Ordered for wound healing support	P. 1068

IV. Dysphagia Therapy

DATE	Page	Discipline	Assessment Summary	Discharge Summary
October 15, 20XX	p. 425, 349	Physical Therapy	Physical Therapy evaluation - seen for advanced dementia, muscle rigidity and neck tightness with variable alertness. Goal to assist with positioning and decrease the risk of skin breakdown and aspiration.	11/1/XX - Requires wedge cushion for positioning during feeding
October 15, 20XX	p. 367	Occupational Therapy	Total dependence for feeding, stiff neck difficult to position for safe feeding, requires continuous oxygen	(Hospital admission prior to discharge from OT)
November 1, 20XX	p. 310	Occupational Therapy	Requires max assistance to eat, decreased cognition, decreased ability to follow one step directions	Total feeder, patient makes no attempt to initiate eating

V. F-Tags

F-Tag	Issue	Notes
F580	No evidence that the provider was notified of any acute event or change in condition on or after 12/23/XX.	Physician order for transfer to Acute Care Hospital on 12/23/XX is dated 12/26/XX. Based on the medical record, this verbal order was the physician's first documented notification
F684	No documentation of change in condition, assessment, or clinical response during or after aspiration event.	All information on the event and staff response is verbally relayed to ambulance staff and found in the emergency medical service record. This is clearly a quality of care issue - or failure to respond properly and fully to discovery.
F725	Lack of acute documentation may reflect insufficient staffing or oversight during a possible emergency.	Given the date during peak holiday time (12/23/XX) and the number of staff signatures with "agency" as a part of their electronic signature - as much as 30% of direct care staff were not Long Term Care Facility employees. Questionable whether the facility met their duty to maintain sufficient staffing. It would be interesting to look at the patient care assignments and acuity or care requirements within those assignments. Feeding Mr. J would have been a lengthy process, feeding 1/2 teaspoon at a time, alternating taste, texture, and temperature, assuring that the swallow occurs before providing another bite. If this aide had either too many patients, or too many patients with very high care needs, it's very likely they rushed and caused the aspiration event.
F726	No documentation of trained staff recognizing or managing a potential aspiration or respiratory compromise.	No documentation of who was feeding the patient at the time of the aspiration event. Given the high number of "agency" staff on the signature pages, it is questionable whether staff feeding Mr. J were aware of how to feed him. In October, 2024, there are notes instructing staff to feed in "small bites" and "small sips", but there are no feeding instructions at all found on November or December 2024 administration records.
F726	No documentation of trained staff recognizing or managing a potential aspiration or respiratory compromise.	No skilled intervention or assessment recorded during the aspiration event that led to the patient's death. No notes, no orders (physician order for transfer written three days later), no written documentation of incident sent to the receiving facility - all accounts of the aspiration incident are verbal from the ambulance crew as verified by the presence of mashed potatoes in the airway in the ER.

F756	Medication administration recorded as administered long after the resident had been discharged 12/23/XX at 7pm.	Charting should occur in real time or at least should reflect actual care given as a late entry. This chart demonstrated a night shift nurse documenting providing oral medications, a wound assessment to Mr. J after his discharge.
F842	Clinical record reflects inaccurate medication timing after discharge, compromising the integrity of documentation.	In multiple locations throughout notes, orders, and administration records, orders are placed, medications are administered, oxygen tubing is changed after the patient has been discharged 12/23/XX at 7pm. Medical records are to be charted in real time. Additionally, records were not appropriately provided to the receiving facility (Acute Care Hospital) based upon the ambulance report. The interfacility transfer records found in both the Long Term Care Facility and Acute Care Hospital records contain no information specific to the precipitating event or any staff attempts to assist.

VI. Defense Arguments

1. Mr. J had a progressive neurodegenerative disease with ample evidence of increasing difficulty eating and swallowing during the years he was at Long Term Care Facility. His repeated aspirations were an expected part of his overall decline. The facility repeatedly evaluated and treated Mr. J for his risk of aspiration.

2. There is evidence in the Acute Care Hospital record that Mr. J may have had a malignancy. Though there is no mention in the records of follow-up, a CT scan demonstrated “innumerable” lesions in the liver, which very likely could have been metastasis from the documented right lung nodule. Neither the lung nodule nor the liver lesions appear to have been followed up, so this is unknown.