



Comisión Nacional de los Derechos Humanos

México

Recommendation 44/2011

The following is a synopsis of the recommendation emitted by the CNDH . The complete version may be consulted on this institution's web page.

Mexico City, August 6th, 2011

SUBJECT: CASE OF INADEQUATE MEDICAL ATTENTION TO THE DETRIMENT OF V1

AUTHORITY RESPONSIBLE: HEAD OF GENERAL MANAGEMENT OF THE INSTITUTE OF SOCIAL SECURITY AND SERVICES FOR STATE EMPLOYEES

The events took place on November 26th 2008, when V1, a 49 year old male patient diagnosed with chronic cholecystitis presenting gallstones in the gallbladder (cholelithiasis), was operated on at the Doctor Fernández Fierro General Hospital (HG) of the Institute of Social Security and Services for State Employees (ISSSTE). It was there that AR1, a doctor of the General Surgery Ward of the HG performed a cholecystectomy (surgical removal of the gallbladder) without carrying out a comprehensive analysis prior to the operation, in addition to the fact that he failed to perform a percutaneous transhepatic cholangiography or a proper physical examination in order to verify the existence of residual stones in his adjacent organs, as did eventually occur.

Days after the surgery, V1 suffered complications, causing him to be operated on again on the 3rd of December of that same year. This time, an exploratory laparotomy was performed and lead to the discovery of gastric fluids within the gastric cavity, a duodenal ulcer and perforations and polyps in the first section of the duodenum. As a result, he was surgically intervened 8 more times at the HG and was then transferred to the ISSSTE's 20th of November National Medical Center (CMN) on January 3rd 2009, as per his request. At the aforementioned CMN, V1 was operated on 5 times due to various health complications including a hospital-acquired pneumonia. V1 died on the 15th of March 2009 due to septic shock, metabolic acidosis and pneumonia, all of which derived from the cholecystectomy

Thanks to the logical juridical analysis performed on the entirety of the evidence which is part of the file initiated in response to the complaint presented by Q1, the National Commission was able to obtain sufficient proof to confirm violations to the right to health protection and life to the detriment of V1, attributable to medical personnel of the HG.

Taking all of this into consideration and based on article 102, clause B, of the Political Constitution of the United Mexican States; article 6, section III, 71, second

paragraph and 72, second paragraph of the Mexican National Human Rights Commission Law, there are sufficient convictive elements to allow the Mexican National Human Rights Commission, in accordance with its duties, to present an official complaint before the Internal Control Body of the Institute of Social Security and Services for State Employees with the aim of initiating the appropriate administrative procedure of investigation. The CNDH is also ready to present a declaration of events before the agent of the Federal Public Prosecutor's Office against the doctors who intervened in the events discussed in this case.

Consequently, the Mexican National Human Rights Commission respectfully presents you, the head of General Management of the Institute of Social Security and Services for State Employees, with the following:

Recommendations

First. Instruct whomever it may concern so that the necessary steps are taken to pay compensation to the relatives of V1, or whoever is better entitled to receive it, due to the institutional responsibility incurred upon by the doctors of the ISSSTE who treated him, in light of the considerations set forth in the body of the current recommendation. Proof of compliance must be sent to the National Commission.

Second. Issue instructions to whomever is responsible so that in the hospitals pertaining to the Institute which you preside over, and specially at the Doctor Darío Fernández Fierro General Hospital, comprehensive training programs on the contents, handling and observance of the Official Mexican Norms (NOM) regarding health are developed and carried out. The goal of this to ensure that the public service which is provided by doctors as well as nursing staff is adjusted to suit the legal framework and administrative best practices that should be observed in performing their functions, guaranteeing that intervention protocols are applied precisely and thereby avoiding actions such as those that led to the present declaration. Proof of compliance should be sent to the National Commission.

Third. Cooperate fully with the Mexican National Human Rights Commission in the presentation and processing of the complaint presented before the Institute's Internal Control Body against the doctors involved in the treatment of V1, sending proof of compliance to the Commission as required. 10

Fourth. Duly cooperate in investigations arising from the complaint, which the Mexican National Human Rights Commission will present before the Attorney General's Office in light of these events, as the case involves federal public servants. Submit to the Commission proof of compliance as required.