

HALSTROM LAW OFFICES, P.C.
WEB RELEASE

**Cystic Fibrosis Genetic Testing Ordered, But Not Done;
Newton, MA parents, physicians, licensed practical nurse, and employer settle over failure
to perform genetic testing to detect cystic fibrosis in fetus**

The gene for cystic fibrosis and its protein were discovered in 1989. Genetic tests to detect the disease were widely available nationwide in the mid-1990s. The state of Massachusetts has offered universal newborn screening to detect cystic fibrosis (CF) since 1999.

The client was seen at a Greater Boston medical practice for prenatal care and genetic counseling during her pregnancy. The client made it known that she had a family history of cystic fibrosis. The defendant nurse practitioner ordered cystic fibrosis genetic screening and wrote that she had ordered the same in the client's medical chart ("CF Testing.") The nurse practitioner, however, failed to check an appropriate box on a test requisition form sent to the laboratory and thus the test was never performed. The client was never told by the nurse practitioner that the nurse practitioner was ordering a cystic fibrosis genetic screen or test for her, and therefore the client never inquired about the results herself. The nurse practitioner failed to follow up to see if the test was ever performed. It was not.

The client's primary obstetrician (defendant obstetrician #1) failed to follow up on the previous order for a genetic CF screen made by the nurse practitioner when the obstetrician encountered the client 22 days later or at any time before birth.

A different covering obstetrician (defendant obstetrician #2), who only saw the mother once, failed to follow up on the results of the previous order for a genetic CF screen made by the nurse practitioner when the obstetrician encountered the client 23 days after the encounter with obstetrician #1.

Had the proper test been performed, it would have revealed that there would have been a 25 percent likelihood that the couple's child would be born with the cystic fibrosis.

It was not until after the birth of the child that the parents were informed that their daughter did, in fact, have cystic fibrosis.

Attorney Frederic N. Halstrom filed a lawsuit on behalf of the parents (who went bankrupt paying for the medical costs), seeking damages for the extensive costs associated with caring for a child with cystic fibrosis as well as the emotional harm caused by the failure to diagnose the disease to be offset against the joys of having and raising a child. The parents alleged that the defendant nurse practitioner failed to properly order the genetic CF screening test and failed to follow up to check the results of the test. The parents alleged that the defendant obstetricians

failed to properly review the client's medical chart and to similarly follow up to inquire what the genetic CF screening tests results showed.

A life care plan demonstrated that the child would need intense chest physiotherapy for life to clear mucus from her lungs, she would need a VEST to clear mucus from her lungs, she would need lifelong care at an accredited Cystic Fibrosis Foundation Accredited Care Center, she would need nutritional therapy, and most importantly she would need a certain medication regiment to keep her lungs healthy. This therapy, medication, and care would all be performed for the sole purpose of slowing the decline in the child's lung function so that she could push off a single or double lung transplant as late in life as possible. In general, approximately 50% of lung transplant recipients live five years after their lung transplant surgery.

The child will be followed for life at Massachusetts General Hospital, one of the best hospitals for respiratory disease in the United States.

All parties agreed, after negotiations, to settle all claims before trial. the settlement was approved by the Massachusetts Superior Court and the United States Bankruptcy Court in Boston.

PLEASE SEE INFORMATIVE LINKS ON CYSTIC FIBROSIS:

Guwande, Atul. The Bell Curve. **The New Yorker**. December 6, 2004
http://sitemaker.umich.edu/emjournalclub/article_database/da.data/225737/PDF/bell_curve_new_yorker.pdf

Cystic Fibrosis Foundation

Treatments (Chest Physiotherapy, Medications, Etc.)

<http://www.cff.org/treatments/>

Research Milestones <http://www.cff.org/research/ResearchMilestones/>

Living with Cystic Fibrosis <http://www.cff.org/LivingWithCF/>

American Journal of Respiratory and Critical Care Medicine

Cystic Fibrosis Pulmonary Guidelines, Chronic Medications for Maintenance of Lung Health <http://ajrccm.atsjournals.org/cgi/content/short/176/10/957>

2007 Annual Report of the U.S. Organ Procurement and Transplantation Network and the Scientific Registry of Transplant Recipients: Transplant Data 1997-2006. Health Resources and Services Administration, Healthcare Systems Bureau, Division of Transplantation, Rockville, MD. (Showing Approximately 50% of Lung Transplant Recipients Live 5 Years Post Transplant)

Heart and Lung Transplantation in the United States 1997-2006

http://www.ustransplant.org/annual_reports/current/chapter_vi_forprint.pdf

U.S. News and World Report, Best Respiratory Disorder Hospitals

<http://health.usnews.com/health/best-hospitals/respiratory-disorders-hospital-rankings/>

(MGH pulmonary service ranked #5 and Yale-New Haven ranked #9, the only other top 50 ranked New England Hospital was Brigham and Women's Hospital).