

PROTECTING THE ELDERLY AND/OR MENTALLY IMPAIRED NURSING HOME PATIENT FROM TARDIVE DYSKINESIA

By Sandra M. Radna, Esq.

A 47 year old woman who was being treated for Depression and Obsessive Compulsive Disorder at Brookdale Hospital in Brooklyn, was noted by her doctor, a 4th year medical resident, to have involuntary movements of her face including grimacing, eye squinting, Rabbit like movements of her nose and finger tapping. The resident misdiagnosed the patient as having Tourette Syndrome,¹ a genetic disorder. The patient was later correctly diagnosed as having Tardive Dyskinesia, a chronic disorder of the nervous system characterized by involuntary jerky movements of the face, tongue, jaws, trunk and limbs usually developing as a late side effect of prolonged treatment with antipsychotic drugs.²

If the patient had been correctly diagnosed when the involuntary movements first appeared, and prior to the development of the Tardive Dyskinesia, there is a high likelihood that the symptoms would have completely abated with the discontinuance of the medication. “If the individual with Tardive Dyskinesia remains off neuroleptic medication, the dyskinesia remits within 3 months in one-third of the cases and remits by 12-18 months in more than 50% of cases, although percentages are lower in older persons”³

Unfortunately, in the case of *Mills v. Roque et al.*, the medication was not discontinued in time to allow the symptoms to abate and the misdiagnosed patient/plaintiff has permanent, irreversible Tardive Dyskinesia which has left her disfigured and disabled from employment. The medical malpractice lawsuit against Brookdale Hospital, the resident who treated Ms. Mills and the resident’s supervisors, resulted in a \$7.9 million dollar verdict for the plaintiff in the year 2008.⁴

Antipsychotic medications, also known as neuroleptics, are found in virtually every nursing home. They are prescribed to the elderly to sedate agitated patients and are also utilized as sleep aids. The names of the medications are familiar to those with family members in nursing homes: Seroquel, Haldol, Thorazine, Stelazine, Mellaril, Resperidol and others.

¹ Tourette Syndrome is a complex disorder characterized by repetitive, sudden and involuntary movements or noises called tics. Almost all cases of Tourette Syndrome arrive from a variety of the genetic and environmental factors. National Institute of Health. www.ghr.nlm.nih.gov/condition/tourette-syndrome.

²The American Heritage Medical Dictionary, Copyright 1007, 2004 by Houghton Mifflin Company, Published by Houghton Mifflin Company.

³ Diagnostic and Statistical Manual of Mental disorders, Fourth Edition, Appendix B Criteria Sets and Axes Provided for Further Study, 333.82 Neuroleptic Induced Tardive Dyskinesia

⁴ Mills v. Roque, et al., Index #: 19187/04, Kings County, Plaintiff’s attorney: Sandra M. Radna of Radna & Androsiglio, LLP

In 2007, it was estimated by the Centers for Medicaid and Medicare Services (CMS)⁵ that approximately 30% of nursing home patients are on antipsychotic medications. According to CMS, approximately 21% of the patients who are on antipsychotic medication have not been diagnosed with a psychosis. A 2005 CMS study found that in nursing homes, antipsychotics were being prescribed for depression, memory loss, confusion and feelings of isolation. 6

In the nursing home population, where patients are kept on medications for extended time periods, where illnesses such as Parkinson=s Disease can cause some of the movements that are seen in Tardive Dyskinesia and when the blinking and grimacing associated with Tardive Dyskinesia may be instead attributed to dementia, patients suffering from medication induced movement disorders are largely undiagnosed.

To protect the elderly or mentally impaired patient who is residing either temporarily or permanently in a skilled nursing facility, this author suggests that it is important that someone: either a family member, health care proxy or guardian, remain aware of any new medications on which the patient is placed. Note should be taken of any new symptoms such as anxiety, also known as akathisia, which is one of the earliest signs of sensitivity to a neuroleptic and may be a precursor to the later development of Tardive Dyskinesia. With the symptom of akathisia, the patient develops an irresistible urge to move about. Patients may repeatedly cross and uncross their legs, sway, change posture, rock or pace.⁷

As most of the early symptoms of Tardive Dyskinesia are involuntary, and the patient is often unaware of the occurrence of the involuntary facial movements, it is important for the patient=s family member, health care proxy or guardian to report any new grimacing, twitching, rapid eye blinking, tongue protrusion, lip smacking, pursing or puckering, rapid movement of the arms or legs or other involuntary movements of the head face, neck and tongue muscles that was not previously present.

The elderly, as well as patients suffering from mental disabilities are among the most vulnerable patients since they are often ignored or not believed when they complain of bothersome symptoms.

Advising clients in your elder care practice to have someone appointed or Ain charge@ of watching over their loved one in a nursing home may save the family and the patient a great deal of heartache and suffering.

⁵CMS is a US Federal Agency which administers Medicare, Medicaid and the Children=s Health Insurance Program.

6 Wall Street Journal December 4, 2007

7 Annals of Internal Medicine, Diagnosis and Treatment, Drug Use in the Nursing Home, August 1, 1995 by Jeffery Avorn and Jerry Gurwitz, cited in escalating polypharmacy by D.A. Gorard November 1, 2006

Sandra M. Radna, a partner in the firm of Radna & Androsiglio, LLP since 1995, represents clients in matrimonial matters, family court matters, general litigation, medical malpractice, personal injury and real estate matters. Ms. Radna obtained her undergraduate degree from Hofstra University in Biology, attended nursing school at Adelphi University and obtained her Juris Doctor Degree from Ohio Northern University Pettit College of Law. Ms. Radna served as the Secretary of the Medical Malpractice Committee from 1998-2000, has been on the faculty for Continuing Legal Education in the Area of Medical Malpractice, was featured in *Newsday* and the *Cooperator* for her comments in the area of real estate, has been featured in *Long Island Business News* in the areas of medical malpractice and personal injury, was featured in *Newsday* in their “Ask the Expert” column in the area of matrimonial law and was recently featured in *Physician’s Money* digest with regard to medical malpractice. Ms. Radna is on the Board of Directors of the Hope for Youth Foundation and World Adhesion Foundation and is counsel to the Long Island Advancement of Small Business.