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Gaytan Family Sues Fresenius Medical Care

Teresa Gaytan, 65, died following a series of mistakes at a Berwyn dialysis clinic, a now-settled lawsuit alleged

By Katy Smyser | Thursday, Apr 19, 2012 | Updated 10:19 AM CDT



Teresa Gaytan, second from right, died following a series of mistakes at a Berwyn dialysis clinic, a now-settled lawsuit alleged.

Teresa Gaytan's children wanted her to come home.

The 65-year-old mother of five had been living for about a year in a nursing home, dealing with congestive heart failure and kidney failure. But her five children -- all adults -- wanted to care for her themselves. After making arrangements for outpatient treatment at a local dialysis center, they were able to bring her back to the home where she'd raised all her children.

"It was just... complete," said her daughter, Angela Gaytan. "We were able to eat together, laugh together. It's the sense of being complete with her there."

Gaytan needed dialysis three days each week, so her children arranged for her to get treatment at Fresenius Medical Care in Berwyn. She'd gone for two treatments during her first week home, and on March 5, 2009, she went in for her third.

"About three hours later, we got a call," her daughter recalled. "They said they were rushing my mother to the hospital. I asked what happened, and they wouldn't tell me."

The family went to the hospital to find their mom completely unresponsive.

"I remember the doctor sitting down and just putting his head down, and he said something had gone terribly wrong with her dialysis at the center," said Angela Gaytan.

Two days later, she said, the doctors confirmed there was nothing more that could be done, and the family took their mother off of life-support. She died on March 10th, 2009.

"We would try to call the facility to get answers from them because obviously something happened there. ... They weren't giving us answers."

So the Gaytan family sought out Chicago attorneys Joseph Lopez and Mark Parts, who ended up filing suit against Fresenius Medical Care. Through discovery and depositions, they pieced together a narrative of what they believed happened to Teresa Gaytan, [which they outlined in their Second Amended Complaint in their lawsuit](#).

According to the Gaytan family's complaint, there was a series of mistakes which led to the woman's death: A patient care technician did a reversal of her dialysis lines (which he was not qualified to do); the lines weren't secured properly and Gaytan began hemorrhaging, and then the alarms -- which were supposed to signal that something was wrong -- were ignored.

"There were many, many mistakes," said Parts. "But even among those many mistakes, if somebody had done something at one step of the process along the way, that could have turned the whole thing around."

Fresenius Medical Care would not comment on Teresa Gaytan's case, citing privacy concerns. The company eventually came to a seven-figure settlement with the Gaytans, but admitted no wrongdoing.

For families like the Gaytans -- trying their best to figure out where to send a loved one for the complicated process of dialysis -- [ProPublica's dialysis facility tracker gives information on mortality statistics and infection rates](#). It spells out information and statistics that the government has collected for years from dialysis clinics, but never made public until ProPublica pushed to get it a few years ago.

But physicians and nephrologists repeatedly stress that a kidney patient needs to consider far more than just these statistics. They point out that getting dialysis is not like buying a car or a house, where you can compare miles per gallon or room sizes and simply choose the "best."

Dialysis involves all kinds of variables, including how sick you are, where you live, what kind of insurance you have, how old you are, and your likelihood for getting a kidney transplant.

According to several nephrologists that Unit 5 consulted, all those factors can mean that the best clinic for you is not necessarily one of the "top" clinics on ProPublica's tracker.

The Fresenius clinic in Berwyn, where Teresa Gaytan went, currently ranks about average for mortality and infection rates in the most current figures posted by ProPublica. The Fresenius corporation owns dozens of dialysis clinics in the Chicago area, and while a few of their clinics have relatively high rates of mortality and infection, several Fresenius clinics have some of the lowest death and infection rates in the area, according to the figures published by ProPublica.

For example, Fresenius' dialysis clinic in Chicago's Garfield neighborhood ranks well on ProPublica's tracker. It is run by Dr. Brian Duffy, who points out that he has his offices inside his dialysis unit, so he is able to see his patients as often as 12 times a month.

But Dr. Duffy points out that every doctor will have a slightly different way of running a dialysis clinic.

"It's my setup, where we see them all the time," he said. "I know there are other practitioners that have nurse practitioners or physicians' assistants who will communicate with [the doctors] as to what the situation is. So Fresenius doesn't mandate any number of visits. ... It's really what the physician thinks is appropriate."

In the end, that appears to be the best way to use ProPublica's tracker as well -- as one more tool to share with your doctor, as you decide together what the most appropriate dialysis facility is for you.

That's something Angela Gaytan said she'd advise anyone in her situation trying to do the best for a loved one who needs dialysis.

"Just do your homework," she said. "Don't rush."

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