

While treating an aged patient in a nursing home, Dr. Gerald Einaugler, mistook a dialysis catheter in the patient's abdomen for a feeding tube, and ordered feeding solution pumped through it. Six days later the patient, Alida Lamour, aged 78, was dead. The District Attorney's Office brought criminal charges against Dr. Einaugler. In 1993 he was convicted of two misdemeanors and sentenced to serve fifty two weekends in prison. Medical groups, including the American Medical Association, have strongly condemned the criminal conviction of Dr. Einaugler, saying that it will irreparably chill the practice of medicine. At the trial prosecutors related the following. Dr. Einaugler was notified of his error early in the morning the day after he made it. He promptly called the physician heading the dialysis unit which had been treating Ms. Lamour who told him to get her to a hospital as soon as possible to treat her for peritonitis, infection of the membrane lining the abdomen. Dr. Einaugler, however, did not do this. Instead, he directed nurses to monitor Ms. Lamour's condition throughout the day, and did not order her sent to a hospital until late in the afternoon when it became clear Ms. Lamour was weakening. At the hospital Ms. Lamour was diagnosed with peritonitis and died four days later.

Was the decision to prosecute Dr. Einaugler morally justifiable? If so, why, and was the punishment appropriate? If not, why not? (reported in the New York Times, 3/16/95)

MODERATOR'S ANSWER: The decision to prosecute Dr. Einaugler was morally justifiable and his punishment was appropriate. A physician should not be criminally prosecuted for mistaken judgment, even in cases of gross incompetence. Revocation of a physician's license to practice medicine is the appropriate measure in such circumstances. In Dr. Einaugler's case, however, the evidence is sufficient to indicate that he exposed his patient to mortal danger because he wanted to downplay the severity of his mistake. This brings his actions within the sphere of the criminal law. The misdemeanor convictions and weekend punishment are appropriate insofar as Dr. Einaugler's actions indicated wanton disregard for his patient's safety, but not a clearly formed intention to harm her.

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