

Hospital settles suit, pledges tough stance on drug-testing policy

Family receives \$10.5 million, endorsement
of legislative effort from Lubbock hospital

By **MARK BABINECK**
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LUBBOCK — A Lubbock hospital will revamp its drug testing policy and pay \$10.5 million to the family of a pregnant woman who died in 1995 after she was anesthetized by a drug-abusing doctor.

South Park Hospital also has agreed to join the father of Margo Glickman Johnson in calling for the Texas Legislature to address the rights of patients who sue hospitals.

"This is unprecedented," said Richard Mithoff, attorney for father Jake Glickman, a Big Spring resident. "I've been at this for 25 years. What this does is set a standard for every hospital in the country in terms of drug screening of emergency room and nursing personnel."

Mithoff is a prominent Houston attorney also is involved in a major breast-implant lawsuit

The hospital admitted no liability in the Lubbock case, defense attorney D. Thomas Johnson said, but it pledged to strengthen its drug policy regarding doctors, including random testing and drug-related education.

South Park's staff must approve a change in the hospital bylaws permitting drug testing, hospital chief executive officer Clint Matthews said.

Matthews said he was not aware of another hospital that randomly checks physicians for drug abuse.

The \$10.5 million payment, part of the settlement approved by a judge on Tuesday, was the maximum allowed by law, Mithoff said.

South Park was a unit of Tennessee-based Ornda HealthCorp at the time of Johnson's death. It's now owned by Tenet Health Care Corp. of California.

The parties agreed to the settlement on July 3, a day before the two-year anniversary of Johnson's death from complications after a doctor misplaced epidural anesthetic, attorneys said.

The anesthesiologist, Dr. Jack

Dunn III, was impaired and missed the epidural space in the 20-year-old woman's lower back, instead striking the vena cava, a major vein leading to her heart, the lawsuit alleged. Johnson died quickly of a heart attack and her baby was not delivered.

Dunn had settled with the family earlier. There was no answer at his Lubbock phone number Wednesday.

The key was a 14-page handwritten letter from Dunn to his girlfriend in which he detailed his addiction to a variety of drugs, many available at the hospital.

Under current state law, the hospital was immune from releasing the letter during the discovery phase. A sympathetic nurse secretly supplied plaintiffs with the evidence four months ago, Mithoff said.

"It was horribly damning," said Mithoff.

A recent Texas Supreme Court ruling forces patients to prove that a hospital acted with malice by allowing an incompetent or impaired physician to work there. The burden of proof of such extreme negligence would have been extraordinary without the letter, Mithoff said.

"We were fortunate to be able to get this internal document," Mithoff said. "It's a classic example of why the (disclosure) law needs to be looked at. If you have doctors on drugs, it's the kind of thing patients and other hospitals would like to know."

South Park pledged to support Glickman's effort urging lawmakers to address both the disclosure of physician information that "potentially affects the health and safety of patients" and the issue of whether hospitals should be liable when they are negligent in credentialing physicians.

Johnson said the hospital only agreed to support a law "giving consideration to the concerns of patients, physicians and hospitals."

South Park won't necessarily endorse Glickman's suggestions to change the laws, Johnson said.