

FILED
07-28-2023
Clerk of Circuit Court
Outagamie County
2023CV000345

STATE OF WISCONSIN CIRCUIT COURT OUTAGAMIE COUNTY

SCOTT SCHARA, individually, and as the
Administrator of the Estate of Grace Schara
N4833 Misty Meadows Road
Freedom, WI 54165

CASE NO.: 23-CV-345

JUDGE: Judge Mark J. McGinnis

Plaintiff,

-vs.-

ASCENSION HEALTH
C/O Corporation Service Company
33 East Main Street, Suite 610
Madison, WI 53703

ASCENSION NE WISCONSIN, INC. D/B/A
ASCENSION NE WISCONSIN –
ST. ELIZABETH CAMPUS
C/O Corporation Service Company
33 East Main Street, Suite 610
Madison, WI 53703

GAVIN SHOKAR, M.D.
c/o Legal Department
1506 S Oneida Street
Appleton, WI 54915

DAVID BECK, M.D.
c/o Legal Department
1506 S Oneida Street
Appleton, WI 54915

DANIEL LEONARD, D.O.

c/o Legal Department
1506 S Oneida Street
Appleton, WI 54915

KARL BAUM, M.D.

c/o Legal Department
1506 S Oneida Street
Appleton, WI 54915

RAMANA MARADA, M.D.

c/o Legal Department
1506 S Oneida Street
Appleton, WI 54915

HOLLEE MCINNIS, R.N.

c/o Legal Department
1506 S Oneida Street
Appleton, WI 54915

ALISON BARKHOLTZ, R.N.

c/o Legal Department
1506 S Oneida Street
Appleton, WI 54915

**WI INJURED PATIENTS AND
FAMILIES COMPENSATION FUND**

125 South Webster Street
Madison, WI 53703

**JOHN DOES 1, 2, 3, 4 –
MEDICAL PROVIDERS**

c/o Legal Department
1506 S Oneida Street
Appleton, WI 54915

Defendants.

AMENDED SUMMONS

STATE OF WISCONSIN:

To the above-named Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written Answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the Complaint. The court may reject or disregard an Answer that does not follow the requirements of the statutes.

The Answer must be sent or delivered to the Court, whose address is: Clerk of Circuit Court, Outagamie County Courthouse, 320 S Walnut Street, Appleton, WI 54911 and to Plaintiff's attorney, Joseph W. Voiland, whose address is 519 Green Bay Road, Cedarburg, WI 53012. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future and may also be enforced by garnishment or seizure of property.

Joseph W. Voiland (Bar No. 1041512)
Cedarburg, WI 53012
Telephone: (262) 343.5397
Email: joseph.voiland@veteranslibertylaw.us

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Case Codes: 30105 - Wrongful Death
30104 – Med Mal / Ch. 655
30103 – Med Mal / Other
30701 – Dec. Judg.

-vs.-

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Defendants.

FIRST AMENDED COMPLAINT

INTRODUCTION

Grace Schara, a 19-year-old with Down syndrome, died at St. Elizabeth’s Hospital after medical staff administered three drugs that, when given together, hasten severe hypoxia– Precedex, Ativan, and morphine. As Grace slipped into acute respiratory failure, her sister, in person, and her parents, over a FaceTime call, begged for help. Instead of starting CPR immediately, the nurses refused; they never performed CPR whatsoever. Grace’s physician unilaterally designated her as a “Do Not Resuscitate” (DNR) patient. That DNR order was written without the family’s consent and in defiance of the Schara family’s express wishes that all lifesaving measures be deployed for their daughter with Down syndrome. Because of the lethal cocktail of drugs and the fraudulent DNR order, Grace died on October 13, 2021.

Hospital protocols are dangerous to patients with Down syndrome who experience discriminatory care due to disability contrary to the requirements of Americans with Disabilities Act. Grace was denied access to an advocate. This suit seeks to lay the groundwork for other hospital victims where their right to informed consent was denied, and the patient suffered injury and death.

Plaintiff Scott Schara, individually, and as the Administrator of the Estate of Grace Schara, for his claims for relief against Defendants Ascension Health, Ascension NE Wisconsin, Inc. d/b/a Ascension NE Wisconsin¹, Gavin Shokar, M.D., David Beck, M.D., Daniel Leonard D.O., Karl Baum, M.D., Ramana Ramada, M.D., Hollee McInnis, R.N., Alison Barkholtz, R.N., the WI

¹ Defendants Ascension Health and Ascension NE Wisconsin, Inc. d/b/a Ascension NE Wisconsin – St. Elizabeth Campus are referred to herein collectively as “Ascension Health.”

Injured Patients and Family Compensation Fund, and John Does 1, 2, 3, and 4 – Medical Providers, states as follows:

1. This lawsuit consists of claims of medical malpractice and medical battery arising from the treatment of Ms. Grace Schara (“Grace”), deceased, a nineteen-year-old girl with Down syndrome who was killed by the negligence and nonconsensual treatment of health care professionals working with or for Ascension Health
2. This lawsuit also consists of a claim for negligent infliction of emotional distress on behalf of Scott Schara, Grace Schara’s father, who watched via FaceTime as the same healthcare professionals refused to revive Grace based on a Do Not Resuscitate order improperly placed on Grace’s medical chart.
3. This lawsuit also consists of a request for declaratory judgment declaring the Do Not Resuscitate order placed on Grace’s medical chart and the administration of certain drugs without consent was unlawful and/or in violation of hospital policy.
4. The actions that took place and led to this litigation occurred amid the COVID-19 pandemic; however, Grace did not die from COVID-19 and did not have COVID-19 when she died. She died because she was given end of life comfort-care while in recovery. This unauthorized palliative care consisted of potent sedatives that eventually caused Grace’s respiratory and heart rates to crash. The Defendants are responsible for Grace’s untimely and avoidable death.

THE PARTIES, VENUE, AND JURISDICTION

5. Scott Schara is an individual domiciled in Outagamie County, Wisconsin. Mr. Schara is the Administrator of the Estate of Grace Schara and the father of Grace Schara. At all relevant

times, Scott Schara and his wife Cindy Schara, Grace's mother, were Grace's legal medical power of attorney.

6. Defendant Ascension Health is a non-profit corporation organized under the laws of the State of Missouri. Ascension Health is one of the largest private healthcare systems in the United States and is a Catholic ministry. According to its website, "As a Catholic health ministry, Ascension has a unique obligation and calling."
7. Defendant Ascension NE Wisconsin, Inc. d/b/a Ascension NE Wisconsin – St. Elizabeth Campus is a non-stock corporation organized under the laws of Wisconsin.
8. Defendant Gavin Shokar, M.D., at all relevant times, represented himself to be a licensed and skilled physician in medical care and treatment.
9. Defendant David Beck, M.D., at all relevant times, represented himself to be a licensed and skilled physician in medical care and treatment.
10. Defendant Daniel Leonard, D.O., at all relevant times, represented himself to be a licensed and skilled physician in medical care and treatment.
11. Defendant Karl Baum, M.D., at all relevant times, represented himself to be a licensed and skilled physician in medical care and treatment.
12. Defendant Ramana Ramada, M.D., at all relevant times, represented himself to be a licensed and skilled physician in medical care and treatment.
13. Defendant Hollee McInnis, R.N., at all relevant times, represented herself to be a licensed and skilled registered nurse and an ICU nurse with 14 years of ICU experience in medical care and treatment.
14. Defendant Alison Barkholtz, R.N., at all relevant times, represented herself to be a licensed and skilled registered nurse in medical care and treatment.

15. Defendants Hollee McInnis, R.N. and Alison Barkholtz, R.N. shall be collectively referred to herein as the “Nurse Defendants.”
16. Defendants Gavin Shokar, M.D., David Beck, M.D., Daniel Leonard, D.O., Karl Baum, M.D., and Ramana Ramada, M.D. shall be collectively referred to herein as the “Physician Defendants.”
17. Defendants Gavin Shokar, M.D., David Beck, M.D., Daniel Leonard, D.O., Karl Baum, M.D., Ramana Ramada, M.D., Hollee McInnis, R.N., and Alison Barkholtz, R.N. are referred to herein collectively as the “Professional Defendants.”
18. The WI Injured Patients and Family Compensation Fund is a statutory entity that guarantees obligations of medical providers in professional liability cases in the State of Wisconsin.
19. Venue is proper in the Circuit Court of Outagamie County, Wisconsin, under Wis. Stat. § 801.50 (2)(a) and/or (c).
20. The Circuit Court of Outagamie County has subject matter jurisdiction over the claims of this suit under Wis. Stat. § 801.01(1) as the cause of action arose in Outagamie County, Wisconsin.

FACTS

21. On October 1, 2021, Ms. Grace Schara (“Grace”) tested positive for COVID-19 using an at-home testing kit.
22. On October 6, 2021, Cindy Schara, Grace’s mother, called Grace’s Ascension Health primary care doctor (Dr. Mary Nordstrom) and was told her office would not see Grace because she had tested positive for COVID-19 using an at-home test.
23. Cindy Schara was Grace’s medical power of attorney at all relevant times herein. Grace’s father, Scott Schara, also had medical power of attorney at all relevant times herein at such times and when Cindy Schara was not present or unavailable.

24. On October 6, 2021, Ms. Grace Schara (“Grace”) presented to Ascension Richmond Street Urgent Care in Appleton, WI.
25. Grace’s oxygen saturation was measured in the high eighties.
26. Urgent Care physicians performed a blood panel which returned an elevated D-dimer level. The Urgent Care physicians recommended that Grace be seen at an emergency room for a CT scan to rule out a pulmonary embolism. Urgent Care physicians did not begin oxygen for over an hour after Grace was examined.
27. Grace was transferred via ambulance to Ascension St. Elizabeth Hospital Emergency Room in Appleton, Wisconsin. Grace was placed on oxygen, thereby preventing her parents from driving her to the hospital.
28. Shortly after her arrival at the ER, Grace continued nasal cannula oxygen. Individuals with Down syndrome, like Grace, have a distinct facial structure that differs from individuals without it. The differences include the shape of their nose, ears, and face. Due to those differences, the cannula would not properly stay in place.
29. Lauren Barlow, M.D., the ER treating physician, switched Grace to a mask, hoping it would lead to less slippage since the cannula continuously fell off Grace’s ears. The hospital’s mask also slipped off Grace’s face and was adjusted by Scott Schara each time.
30. BiPAP is not primarily used for improving oxygenation but for dealing with hypercapnia, which is an excess of CO₂ in the lungs. Grace had normal CO₂ levels throughout her stay and so did not require BiPAP. CPAP would have been more appropriate in her situation because Grace did not have high CO₂ levels, and she was already used to a CPAP machine that she used at home. Given that Grace was already accustomed to CPAP, Grace’s CPAP

mask and machine should have been used. Though it was not used, Grace's home CPAP machine was brought in and made available to hospital staff.

31. Karl Baum, M.D. specifically rejected the use of CPAP and specifically rejected the use of Grace's CPAP mask and machine to which she was accustomed. Cindy Schara was told that the machine and mask were not appropriate in the hospital but could be used at home.
32. On October 7, 2021, at approximately 00:12, Grace was admitted to St. Elizabeth Hospital as an inpatient.
33. Grace was placed back on nasal cannula during the day of October 7, 2021. She was then fitted for high-flow Vapotherm. The constant noise of the Vapotherm agitated Grace, causing her to pull at the Vapotherm cannula. She had had no issues with low flow nasal cannula. The doctors then placed her on BiPAP.
34. Due to her agitation from the noise of the high-flow Vapotherm, David Beck, M.D. ordered dexmedetomidine ("Precedex") and lorazepam ("Ativan").
35. On October 7, 2021, at 19:30 and 21:00, David Beck, M.D. ordered Ativan. The first order was PRNQ6H, meaning that it was to be given at most every six hours, as needed. The second order was only for a single administration. Both orders were for a dose of 0.5mg. Bryan Burghardt, R.N. and Michaela Machurick, R.N. administered Ativan.
36. On October 7, 2021, at 21:45, Ramana Marada, M.D. ordered a titration of Precedex. Samuel Haines, R.N. administered Precedex at 22:00 at the stated rate of 1.0.
37. If Grace was agitated at this time to warrant sedation, it was because one or more of the Professional Defendants did not properly account for Grace's Down syndrome, which makes using a breathing apparatus, such as a nasal cannula, a Vapotherm, and some breathing masks, difficult to wear. In Grace's case, Grace's own CPAP mask and machine

would have been a superior choice as her own properly fitted CPAP mask was in the room, and she was comfortable with the fit and feel of it. BiPAP offered no benefits over CPAP in Grace's case. Grace also showed no agitation when on a regular cannula, and proper fitting of the cannula was never attempted.

38. Grace became oversedated from the Precedex, and, at 22:20, the Precedex rate was reduced to a stated rate of 0.7.
39. The Precedex titration rate was adjusted several times over the next approximately 18 hours, at which point it was turned off at 16:11 on October 8, 2021.
40. Precedex was restarted again, without explanation, at about 02:08, on October 9, 2021, at a rate of 0.1 and was slowly increased throughout the rest of her hospitalization up to the highest allowable rate of 1.4 by 10:48 on October 13, 2021.
41. On October 10, 2021, at about 08:00, Alison Barkholtz, R.N. and one or more of the other Professional Defendants had Grace's father, Scott Schara, removed from the hospital by armed guard. As basis, one or more of the Professional Defendants cited Scott turning off non-essential bedside alarms. Scott was trained to turn off the alarms by a nurse at the hospital and did so because the alarms were disturbing Grace's sleep.
42. The removal of Scott Schara initially left Grace completely without family present or advocacy for about thirty (30) hours. During this time, Jessica went to the hospital and was denied access as she tried to replace Scott as an advocate.
43. None of the Professional Defendants properly notified Scott Schara that he would be removed from the hospital if he did not follow instructions.
44. On October 10, 2021, after Scott Schara was removed from the hospital, the Schara family hired an attorney to advocate for the family's right to be present in the hospital.

45. On October 11, 2021, at 8:14 a.m., Scott Schara called Patient Relations to facilitate Jessica's access to Grace's room. Patient Relations stated that they would need to escalate the visitation issues to Patient Relations management.
46. The Patient Relations manager returned Scott Schara's call at approximately 14:15.
47. The Patient Relations manager stated that she would need to involve the legal department.
48. At approximately 15:15, the Scharas' lawyer and the lawyer for the hospital agreed that Grace's sister Jessica would be allowed into Grace's room.
49. Jessica was finally allowed into Grace's room at approximately 15:30.
50. On October 11, 2021, at approximately 19:00, Jessica was told by hospital staff she had to leave. This request for Jessica to leave violated the agreement to allow her access to Grace's room.
51. On October 12, 2021, at approximately 11:00, Jessica was allowed back into Grace's room. The hospital's violation of its own patient visitation agreement with the Scharas left Grace without family present or advocacy for an additional seventeen (17) hours.
52. The Professional Defendants increased Grace's rate of Precedex six times during this period of no advocacy.
53. On October 13, 2021, at approximately 08:00, during the time Jessica was told she had to leave the room to take a shower, Grace was put in restraints and made her defecate in the bed, without permission and without attempting alternatives such as assisting her to the bathroom.
54. On October 13, 2021, at approximately 10:13, Dr. Shokar called Scott and Cindy Schara. The discussion included statements that Grace was doing well that day and overnight. Dr.

Shokar stated that he wanted to get Grace out of bed to watch TV and to place a feeding tube to improve nutrition.

55. Dr. Shokar and Scott also discussed what Scott and Cindy's intentions for Grace were if there was a need to respond to a severe decline in Grace's condition. Scott and Cindy stated that Grace was not to be intubated (DNI). There was a discussion about the possible futility of chest compression (CPR) in light of an order not to intubate.
56. At no time did Scott or Cindy, as Grace's medical power of attorney, consent to or discuss with Dr. Shokar, or any other physician, a Do Not Resuscitate order.
57. At no time did Scott or Cindy, as Grace's medical power of attorney, consent to or discuss with Dr. Shokar, or any other physician, palliative care or comfort care.
58. While Dr. Shokar was on the phone, Holly McInnis, R.N. increased the titration rate of Precedex to the highest allowable dose of 1.4.
59. At 10:56, simultaneous with the end of the call with Scott and Cindy, Dr. Shokar entered a blanket Do Not Resuscitate ("DNR") order on Grace's chart.
60. Plaintiff never consented to the entry of a DNR order, either orally or in writing; neither did Grace or any other member of Grace's family.
61. Dr. Shokar violated Ascension Health policy and/or procedure when he entered the DNR without proper consent or documentation.
62. At 11:25, Holly McInnis, R.N. administered 0.5 mg of Ativan under the original October 7, 2021 PRNQ6H order. Before this dose, Grace had not received Ativan since October 7, 2021.
63. At 17:46, Holly McInnis, R.N. administered another 0.5 mg of Ativan, also under the original October 7, 2021 PRNQ6H order.

64. At 17:49, only three minutes later, Holly McInnis, R.N. administered another 0.5 mg of Ativan.
65. There was no valid order for this third administration of Ativan.
66. At 18:15, Holly McInnis, R.N. administered 2.0 mg morphine under Dr. Shokar's order. Grace had never received morphine before, and no one consented to its administration.
67. At 18:43, Dr. Shokar called Scott and Cindy Schara, stating that Grace had a good day and he just administered morphine to slow her breathing down.
68. At this point, Grace had been receiving Precedex titrated at the highest allowable dose (1.4) since before about 10:48 am. The Precedex titration continued until 18:37, 22 minutes after the administration of 2.0 mg of morphine. Precedex has a well-known synergistic effect with other sedatives--particularly morphine.
69. At approximately 18:45, Jessica felt Grace's temperature dropping and repeatedly summoned nurses to diagnose the issue. The nursing staff refused to assist.
70. No doctor or nurse came into Grace's room after morphine was administered. Hollee McInnis, R.N. told Jessica from outside the room that Grace's drop in body temperature was normal and to cover her with a blanket.
71. At approximately 19:20, Grace's heart rate crashed, and her respiration slowed due to the sedative drugs.
72. At approximately 19:20, Jessica initiated a FaceTime call inside Grace's room with Scott and Cindy. The entire family begged the medical staff to save Grace. The staff responded from the hallway that Grace was coded Do Not Resuscitate. Scott and Cindy screamed, "She's not DNR, save our daughter," and demanded they resuscitate her. The family had no knowledge before this moment that Dr. Shokar had put a DNR on Grace's chart.

73. Medical staff refused to resuscitate Grace or give her the morphine reversal drug (Naloxone). An armed guard was stationed by the doorway.
74. At this point, Scott and/or Cindy Schara, as medical power of attorney for Grace, had revoked any DNR on the record, regardless of whether it was proper or improper.
75. However, multiple medical staff refused to act because of the DNR they claimed was on Grace's chart.
76. This was the first time Scott, Cindy, or Jessica had heard anything about a DNR.
77. At 19:27, Grace died of hypotension and bradycardia caused by the improper, reckless, and unauthorized administration of palliative care. The first cause of death listed on Grace's death certificate, Acute Respiratory Failure with Hypoxemia, was directly caused by medical staff's oversedation of Grace.
78. Dr. Gilbert Berdine, a licensed physician in the State of Texas, independently evaluated Grace's medical record. Dr. Berdine is licensed by the State of Texas in the practice of medicine (Lic. No. G6142). He is Board certified in Internal Medicine and Pulmonary Diseases. Since his Board certifications in Internal Medicine and Pulmonary Diseases predate the existence of Critical Care specialty, he has grandfathered Board certification in Critical Care.
79. After his independent review of Grace's medical record, Dr. Berdine concluded that one or more Defendants violated the standard of care of a competent medical practitioner or medical facility in multiple ways, including but not limited to:
- a. Removing family and disability advocate access for extended periods of time;
 - b. Not obtaining proper informed consent before issuing a DNR order;

- c. Failing to recognize that Grace was experiencing oversedation and to counteract the oversedation.
- d. Failing to resuscitate Grace after any DNR order was revoked by Scott and/or Cindy Schara, as Grace's healthcare power of attorney.
- e. Not using CPAP or AVAPS after BiPaP was shown to be ineffective.
- f. Not obtaining informed consent for sedation medications or palliative care medications.

80. On March 30, 2023, Plaintiff filed a Request for Mediation in compliance with Sections 655.44 and 655.445 of the Wisconsin Statutes.

CLAIM I: WRONGFUL DEATH

As to all Defendants

81. Plaintiff repeats and realleges each and every allegation as if fully restated herein.
82. Under Wis. Stat. § 895.04, Plaintiff sues to recover damages for Grace's wrongful death caused by the Defendants' negligence.
83. The Defendants' gross negligence and breach of the standard of care directly and proximately caused Grace's death.
84. As a result of Grace's wrongful death, Plaintiff and other statutory beneficiaries have suffered pecuniary losses, including but not limited to funeral and burial expenses, and loss of Grace's financial support and services.
85. Plaintiff and other statutory beneficiaries are entitled to recover damages for the wrongful death of Grace in an amount to be determined at trial, including, but not limited to, the following:
- a. Reasonable funeral and burial expenses;

- b. Loss of financial support and services provided by Grace to the Plaintiff and other statutory beneficiaries;
- c. Emotional pain and mental anguish suffered by Scott Schara and other statutory beneficiaries because of Grace's wrongful death;
- d. Any other damages allowed by Wisconsin law.

CLAIM II – MEDICAL NEGLIGENCE

As to the Physician Defendants and Ascension Health

86. Plaintiff realleges the preceding paragraphs as if restated herein.
87. At all times relevant herein, Ascension Health employed, engaged, and/or contracted with employees, agents, and/or contractors to provide medical care and treatment to patients, including Grace, and to further their business, including but not limited to the Professional Defendants.
88. At all times relevant herein, Ascension Health had a duty to exercise reasonable care in the selection, hiring, training, monitoring, and supervision of those medical providers they employ, engage, and contract with to provide medical care and treatment to patients.
89. To preserve this potential cause of action, in breach of this duty, Ascension Health carelessly and negligently failed to exercise reasonable care in the selection, hiring, training, monitoring, and/or supervision of those medical providers, including but not limited to the Professional Defendants.
90. At all times relevant herein, Ascension Health, through its agents, employees, and contractors, including but not limited to the Professional Defendants, had a duty to exercise that degree of professional care as is customarily exercised by reasonably prudent physicians and other medical professionals skilled in the practice of their respective profession and specialty.

91. In breach of their duties and standards of care, Ascension Health, itself and through its agents, employees, and/or contractors, including but not limited to the Professional Defendants, recklessly, carelessly, and negligently failed to exercise that degree of professional care required, including but not limited to failing to obtain consent, informed or otherwise, for placing a Do Not Resuscitate order on Grace's chart, failing to properly diagnosis, treat, care, monitor, and assess, Grace's life-threatening conditions caused by the Professional Defendants, generating inadequate policies/procedures or the like in effect, and failing to properly administer sedative and/or palliative medicines and monitor and/or treat the effects of such medicines.
92. As a direct and proximate result of the recklessness, carelessness, and negligence of Ascension Health, itself and through its agents, employees, and/or contractors, including but not limited to the Professional Defendants, Grace suffered bodily injury, an increased risk of harm, a loss of chance of recovery or survival, and died on October 13, 2021.
93. Further, as a direct and proximate result of the negligence of Ascension Health, itself, and through its agents, employees, and/or contractors, including but not limited to the Professional Defendants, Grace incurred medical expenses.
94. Further, as a direct and proximate result of the recklessness, carelessness, and negligence of Ascension Health, itself and through its agents, employees, and/or contractors, including but not limited to the Professional Defendants, Grace suffered physical pain and discomfort, emotional distress and anxiety, and loss of wages and earning potential.

CLAIM III – VIOLATION OF INFORMED CONSENT

As to the Physician Defendants

95. Plaintiff repeats and realleges each and every allegation as if fully restated herein.
96. Under Wis. Stat. § 448.30, the Professional Defendants had a duty to inform Grace's medical power of attorney about the availability of all alternative, viable medical modes of treatment and about the benefits and risks of these treatments.
97. Under Wis. Stat. § 448.30, the Professional Defendants had a duty to inform Grace's medical power of attorney of the risks, benefits, and alternatives to the proposed medical treatment or procedure, and to obtain Grace or her medical power of attorney's informed consent before moving forward with the treatment or procedure.
98. The Professional Defendants intentionally breached their duty of informed consent by failing to adequately inform Grace's medical power of attorney about the risks, benefits, and alternatives to the proposed medical treatment or procedure and failing to obtain informed consent. Specifically, the Defendants did not inform Grace's medical power of attorney that BiPAP was not the optimal modality for oxygenation, and that the combination of three sedatives- Ativan, Precedex, and morphine- might suppress respiratory ability and cause death.
99. Had Grace's medical power of attorney been properly informed of the risks, benefits, and alternatives, he/she would not have consented to the proposed treatment or procedure and would have chosen an alternative course of treatment or procedure.
100. As a direct and proximate result of the Professional Defendants' intentional breach of the duty of informed consent, Grace suffered severe and permanent injuries, an increased risk of harm, a loss of chance of recovery or survival, and died on October 13, 2021.

101. Plaintiff suffered and will continue to suffer emotional pain, mental anguish, loss of support, and other damages allowable under Wisconsin law because of the Professional Defendants' intentional violation of the Wis. Stat. § 448.30.

CLAIM IV – BATTERY
As to the Professional Defendants

102. Plaintiff repeats and realleges each and every allegation as if fully restated herein.

103. No Professional Defendant obtained consent whatsoever to administer Ativan, Precedex, or morphine to Grace at any time.

104. Precedex is a prescription sedative used to keep a person asleep during surgery or other medical procedures.

105. Ativan is a Schedule IV substance under the Controlled Substances Act.

106. Morphine is a Schedule II substance under the Controlled Substances Act.

107. These three sedatives, when combined, can cause organ failure and/or death.

108. Injecting a person with drugs without consent is unlawful.

109. One or more Professional Defendants administered Ativan, Precedex, and/or morphine to Grace without consent. This action constituted nonconsensual, unpermitted, and unlawful contact.

110. An unlawful and/or invalid Do-Not-Resuscitate order, intentionally placed on Grace's medical record, was at least partially the basis for the administration of such sedatives, the nurses' failure to monitor Grace following the administration of such sedatives, and the intentional non-reversal of such sedatives.

111. As a direct and proximate result of the unlawful and/or invalid Do-Not-Resuscitate order in combination with the Professional Defendants' administration of Ativan, Precedex, and morphine without consent, Grace's lungs and heart shut down, she suffered severe and

permanent injuries, an increased risk of harm, a loss of chance of recovery or survival, and died on October 13, 2021.

112. Plaintiff suffered and will continue to suffer emotional pain, mental anguish, loss of support, and other damages allowable under Wisconsin law because of the Professional Defendants' battery against Grace.

CLAIM V – DECLARATORY JUDGMENT

113. Plaintiff repeats and realleges each and every allegation as if fully restated herein.

114. Under Wis. Stat. § 806.04, the Plaintiff seeks a declaratory judgment to determine the rights, status, and legal relations between the Plaintiff and the Defendants regarding the validity and enforceability of the Do Not Resuscitate (DNR) order and of the non-consensual injection of certain drugs, as stated above, into Grace's body.

115. The Professional Defendants, as healthcare providers, had a duty to follow proper hospital policies, procedures, and the law concerning the issuance and implementation of DNR orders, and they had a duty to obtain consent before injecting certain drugs into Grace's body.

116. One or more of the Professional Defendants issued and/or relied upon a DNR order that was unlawful and/or in violation of the hospital's policies and procedures, failed to verify the validity of the DNR order, did not follow the hospital's DNR protocol, did not act on the revocation of the DNR, and did not obtain consent before injecting certain drugs into Grace's body.

117. One or more of the Professional Defendants claimed authority to enter a DNR order upon "oral" consent from Plaintiff. Plaintiff never consented, either orally or in writing, to the entry of a DNR order in Grace's file.

118. Plaintiff has a legally protectable interest in determining the rights, status, and legal relations between it and the Defendants regarding the improper or unlawful DNR order and the non-consensual injection of certain drugs into Grace's body.
119. There is an actual and justiciable controversy between the Plaintiff and the Defendants concerning the validity and enforceability of the DNR order and the non-consensual injection of certain drugs into Grace's body, and a declaratory judgment would provide the necessary clarity and guidance for the parties involved.
120. Plaintiff requests this Court declare that the DNR order in question, and the non-consensual injection of certain drugs into Grace's body, was unlawful and/or in violation of the hospital's policies and procedures.

WHEREFORE, Plaintiff Scott Schara, individually, and as the Administrator of the Estate of Grace Schara, demands judgment against the Defendants jointly and severally in an amount greater than \$10,000.00 of compensatory damages to be determined at trial, costs, attorney fees, punitive damages, and whatever such additional relief that this Court deems fair and just.

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JURY DEMAND

Scott Schara, individually, and as Administrator of the Estate of Grace Schara, demands trial by a jury of twelve.