

Illinois Courts Find No Personal Jurisdiction in Medical Malpractice Suit Involving Missouri Hospital Accepting Transfer of Illinois Patient

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In *Allen v. Missouri Baptist Medical Center*, 2022 IL App (5th) 210263, the Fifth District of the Illinois Appellate Court reversed a circuit court and ordered the dismissal of a suit alleging medical negligence and wrongful death against a Missouri-based hospital.

Background:

The decedent, an Illinois resident, was originally treated by a co-defendant Illinois physician with no association or affiliation with the Missouri hospital. *Id.* at ¶ 4. The physician performed gall bladder surgery in Illinois at a different hospital, after which the decedent developed complications necessitating further care. *Id.* The physician contacted a second physician who had privileges at the Missouri hospital and arranged for the decedent's transfer to the Missouri hospital, where she ultimately died. *Id.* The decedent's personal representative filed suit in Madison County, Illinois, and the Missouri hospital contested personal jurisdiction.

Plaintiff's Allegations:

The plaintiff asserted personal jurisdiction in Illinois existed because the Missouri hospital allegedly purposely directed its activities to Illinois facilities and patients, and because it agreed to the Illinois co-defendant physicians' request to accept the decedent as a patient. *Id.* at ¶ 5.

There were no allegations that the hospital advertised in Illinois or solicited Illinois residents, or had agreements with Illinois health care providers for the transfer of patients.

As such, the sole question was whether the plaintiff's allegations that the Missouri hospital "routinely" accepted patients from Illinois was sufficient for the plaintiff to meet his burden to establish specific personal jurisdiction. *Id.* at ¶ 16.

The Fifth District Has Its Say:

The appellate court said no. As an initial matter, it determined that some caselaw on this topic (decided before an amendment of the Illinois longarm statute) remained instructive, though not necessarily binding. *Id.* at ¶ 19. These cases established then “whe[n] a patient initiates contact with an out-of-state facility, which does not have offices or conduct services within Illinois, personal jurisdiction generally will not exist without further contacts or activities by the out-of-state defendant within Illinois.” *Id.* at ¶ 22.

Importantly, the plaintiff here asserted that the patient did not unilaterally avail herself of the Missouri hospital’s care, because she transferred at the request of the co-defendant physicians and the Missouri hospital agreed to accept their requested transfer. The Court disagreed, finding no significant difference between a patient “traveling” on her own and the “transfer” of the patient as orchestrated by another health care provider—because in either case, the out-of-state health care provider “has not reached into Illinois[.]” *Id.* at ¶ 23. Rather, the patient, whether by her own travel or another provider acting on her behalf, has reached out-of-state for treatment. In both cases, the out-of-state patient initiated the contact, and in both cases the out-of-state defendant accepted the defendant for treatment at its out-of-state location. *Id.* at ¶ 23.

Finally, in addressing the plaintiff’s allegation that the Missouri hospital “routinely” accepted Illinois patients, this assertion conflated the “often-blurry” line between specific and general jurisdiction. *Id.* at ¶ 27. The Court found that the acceptance of other individuals unrelated to the lawsuit is not relevant, unless it demonstrates (1) activity that would be directed at Illinois residents or the injured party; or (2) that the defendant is availing itself of Illinois laws or protections. But under the circumstances here, the plaintiff failed to put forth any evidence that the Missouri hospital directed advertising or outreach efforts into Illinois to seek out or acquire Illinois residents as patients. *Id.*

Takeaways:

This case presents several important takeaways when assessing personal jurisdiction for medical providers outside Illinois.

First, caselaw decided before the most recent amendments to the Illinois longarm statute remains instructive law, to the extent it addresses the minimum contacts question. Second, the mere acceptance of an Illinois resident as a patient is insufficient by itself to establish personal jurisdiction, whether the contact with the medical provider was initiated by the patient herself or by another provider on the patient’s behalf. Finally, although evidence of the admission of other Illinois residents as patients by itself is not enough, the Court left the door open regarding whether personal jurisdiction may exist if the admission of other patients is coupled with other evidence that the provider is directing its activities into Illinois, such as directed advertising and outreach efforts.