STATE OF MICHIGAN

COURT OF APPEALS

GERIANNE M. REGALSKI, Individually and as Personal Representative of the Estate of ELISABETH REGALSKI,

Plaintiff-Appellant,

v

CARDIOLOGY ASSOCIATES, P.C. d/b/a NORTHPOINTE HEART CENTER,

Defendant-Appellee.

UNPUBLISHED
September 19, 1997

No. 195425
Oakland Circuit Court
LC No. 95-495396 NO

Before: Markey, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Plaintiff's complaint, which asserts that her decedent was injured when, preparatory to medical examination, she was lifted by defendant's staff from a wheelchair to an examining table, was dismissed on defendant's motion for summary disposition based on the two year period of limitations applicable to medical malpractice actions, MCL 600.5805(4); MSA 27A.5805(4). Plaintiff appeals by right, contending that her complaint sounds in ordinary negligence, not malpractice, and is thus subject to the three year period limitations provided by MCL 600.5805(8); MSA 27A.5805(8). This case is being decided without oral argument pursuant to MCR 7.214(E). We reverse and remand.

Although all professional malpractice actions involving persons who are or hold themselves out to be State licensed professionals are subject to a two year period of limitations subsequent to the amendment of RJA §5838 by 1975 PA 142, *Adkins v Annapolis Hospital*, 420 Mich 87, 94-95; 360 NW2d 150 (1984), not all torts perpetrated by such professionals are necessarily malpractice. Some tortious wrongdoing by licensed professionals may be the result of ordinary negligence and not malpractice. *Id.*, 420 Mich at 95, n 10, citing *Fogel v Sinai Hospital of Detroit*, 2 Mich App 99; 138 NW2d 503 (1965), and *Gold v Sinai Hospital of Detroit, Inc*, 5 Mich App 368; 146 NW2d 723 (1966).

In distinguishing situations involving ordinary negligence subject to the three year period of limitations from malpractice actions subject to the two year statute of limitations, a key factor

is whether medical knowledge is required to discern the cause of injury. *Thomas v McPherson Community Health Center*, 155 Mich App 700, 705-706; 400 NW2d 629 (1986). Another key inquiry is whether the act or omission claimed to be negligent requires evaluation or analysis suitably performed only by a medical professional. *Bronson v Sisters of Mercy Health Corp*, 175 Mich App 647, 652-653; 438 NW2d 276 (1989). Here, in contrast to *Bronson* and the authorities therein cited, neither medical expertise nor professional training or supervision is required to appreciate that in lifting a patient from a wheelchair to an examining table, the task should be accomplished without perpetrating a personal injury. This case involves the same type of ordinary negligence as in *Fogel* and *Gold, supra*, and which might have been pleaded and tried as a case of ordinary negligence in *Bishop v St John Hospital*, 140 Mich App 720, 723-725; 364 NW2d 290 (1984), where the plaintiff instead opted to pursue the case as one of medical malpractice, creating a procedural bar to presenting the case on a completely different footing on appeal.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Jane E. Markey
/s/ Janet T. Neff
/s/ Michael R. Smolenski