LOS ANGELES & SAN FRANCISCO

Daily Journal

www.dailyjournal.com

TUESDAY, OCTOBER 20, 2026

Sepsis: America's silent killer — and why I was one of the lucky ones

When sepsis goes undetected, the consequences can be catastrophic, raising questions about whether the failure lies with medical providers, hospital technology or both.

By Gregory L. Bentley

A few years ago, I found myself facing a potentially deadly medical emergency: sepsis. Fortunately, my doctors recognized the condition promptly and I recovered after three days in the hospital. But what made the experience truly remarkable was the timing–and the irony.

While battling sepsis myself, I was pursuing a lawsuit on behalf of a patient who lost multiple limbs after his own sepsis went unrecognized by his doctors, the hospital and an electronic health record system intended to identify patients at risk. Even after decades as a trial lawyer representing catastrophically injured people, I found it deeply moving to confront such a tragic example of how my own story could have ended.

The experience gave me a profound appreciation for the dangers of sepsis and the importance of investigating not only the conduct of healthcare providers in diagnosing and treating this scourge in time but also the technology increasingly relied upon to protect patients.



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Sepsis: A major hospital threat

Sepsis occurs when the body's response to an infection becomes dangerously dysregulated, causing life-threatening organ dysfunction. According to the Centers for Disease Control and Prevention (CDC), warning signs include fever or chills, rapid heart rate, difficulty breathing, confusion, extreme discomfort and clammy or sweaty skin. Untreated, sepsis can quickly progress to septic shock and result in permanent organ damage, amputations or death.

Often dubbed the "silent" killer, each year approximately 1.7 million American adults develop sepsis, and at least 350,000 die during hospitalization or are discharged to hospice. Worldwide, according to the World Health Organization, sepsis is associated with about one in five deaths.

What makes sepsis so dangerous is that its symptoms may initially resemble far less serious conditions. When I developed sepsis, I thought I had the flu, with exhaustion, nausea and confusion. It wasn't until my fever reached 104 degrees that I realized something was seriously wrong. Thankfully, the doctors immediately recognized the warning signs, diagnosed sepsis and began treating me with intravenous medications.

Looking back, what frightens me most is how easily I dismissed the symptoms of a potentially deadly condition.

When electronic sepsis systems fall short

A delayed or missed diagnosis of sepsis can involve failures by physicians, nurses, hospitals or the electronic health record systems they increasingly rely upon. Although the providers may be the natural suspects for a missed diagnosis, the investigation should not stop there.

Modern hospitals rely heavily on electronic health records, monitoring equipment and computerized clinical decision-support systems. Some of these systems use algo-

rithms intended to identify potentially septic patients and alert medical professionals. But these tools can fail: They may work from incomplete or incorrectly entered data, their algorithms may miss developing sepsis, alerts may be delayed or never fire and frequent false alarms can cause alert fatigue. In one recent study published in JAMA Internal Medicine, the electronic health record model failed to identify approximately 67% of sepsis cases (and generated improper alerts in many more) across tens of thousands of hospitalizations.

When medical malpractice and product liability intersect

Missed sepsis diagnoses present an increasingly important intersection between medical malpractice and product liability. For trial lawyers evaluating these cases, the inquiry extends beyond the providers' missed diagnosis to whether critical information was available, whether the electronic systems processed and communicated that information appropriately, and whether earlier recognition and treatment could have prevented the resulting injuries.

That inquiry requires more than establishing that an alert did not appear. It may involve examining the system's intended function, design, available clinical data, configuration, validation, warnings and actual performance. A failure to generate an alert does not automatically establish a product defect. Nor does a physician's failure to recognize sepsis necessarily relieve a technology company of responsibility for a legally actionable defect.

The conduct of the healthcare providers and the performance of the medical technology must be evaluated independently — and in relation to one another. The providers and the technology company may both bear responsibility.

Investigating the electronic evidence

The starting point is reconstructing the medical timeline — the first signs of infection, information available to providers, laboratory results and abnormalities, and the point at which sepsis should first have been recognized.

When electronic health record systems are involved, the investigation should also examine what data the system received, how it processed that information, whether alerts were generated and whether those alerts reached the appropriate providers. Electronic audit trails, software configurations, system logs, hospital policies and technical documentation may become critical evidence. These cases often require collaboration among medical experts, software engineers, and informatics experts familiar with electronic health records and clinical decision-support technology.

Note too that even if a failure occurred, the evidence must establish that timely recognition and appropriate treatment would probably have prevented or reduced the patient's injuries.

A personal perspective

I have often thought about the extraordinary coincidence of my hospitalization and the case I was pursuing. The disparity in outcomes is striking: I was diagnosed and treated promptly and went home in three days; tragically, my client was not so fortunate.

As medical technology becomes increasingly sophisticated — and increasingly central to patient care — its design and performance deserve the same careful scrutiny we apply to other products capable of causing serious harm.

For those of us representing catastrophically injured patients, the intersection of medical judgment and electronic medical technology is becoming an essential part of uncovering what went wrong, identifying who bears responsibility and ultimately helping prevent similar tragedies.

Gregory L. Bentley *is a founding partner of Bentley & More LLP in Newport Beach, California. A past president of Consumer Attorneys of California and a member of the Orange County Trial Lawyers Association Hall of Fame, he has spent more than three decades representing plaintiffs in catastrophic personal injury, wrongful death, and complex product liability litigation.*



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