

Suit raises concern about outpatient clinics

By Amanda Cuda

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Michael Palmer II poses with a banner he had made in memory of his dad Michael Sr. at his home on Columbus Avenue in Stratford, Conn., on Thursday Apr. 16, 2015. Palmer Sr. died in 2013 following a surgical procedure at an outpatient facility in Trumbull. The family is suing the clinic, alleging negligence and other malfeasance. Photo: Christian Abraham

Michael A. Palmer was a man who put family first. The 53-year-old father of eight children and grandfather of 10, enjoyed his role as patriarch perhaps more than anything else in his life.

"He did a lot of cookouts and family gatherings," said his oldest son, Michael A. Palmer, II. "He was the center of bringing everyone together. He was just a great guy."

The family, he said, hasn't been the same since his father, a bus driver for the [Connecticut Transit Authority](#), died in May 2013, following a procedure at the [Surgery Center](#) of Fairfield County in Trumbull. This week, the younger Palmer sued the clinic on his late father's behalf, alleging negligence, corporate negligence and malpractice. The family is asking for damages in excess of \$15,000.

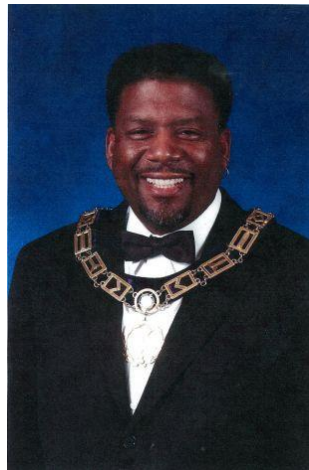
[Michael Palmer II](#) said the procedure, an anterior discectomy and fusion, was too complicated to be performed at an outpatient facility, and his father should have been treated at a hospital.

"I want other families to be aware of what the [surgical centers](#) are doing," Palmer, 35, said. "A complex surgery like the one my father had was more than an in and out surgery."

Though outpatient clinics, also known as ambulatory care centers, are emerging as an increasingly popular place for patients to seek treatment, there have been concerns raised about their safety. The issue burst to the forefront of public consciousness last year, when iconic comedian [Joan Rivers](#) died following an endoscopy at an outpatient surgical facility. Rivers' family has sued the clinic, claiming negligence, and that staff performed procedures to which Rivers did not consent.

[Michael Koskoff](#), the attorney representing the Palmers, said he is handling two other lawsuits involving patients who died following procedures at area outpatient clinics. He declined to divulge many details about those cases, but said both those suits, and the one brought by the Palmers, all involved problems with the administration of anesthesia. All three cases have been brought within the past two years, Koskoff said. In the 15 years before that, he handled only two such cases, which Koskoff said indicates a growing problem.

Meanwhile, those associated with clinics claim that they're as safe, and as regulated, as hospitals. "Ambulatory care centers are one of the most highly regulated sectors of the health care delivery system," said [Ken Rosenquest](#), President of the [Connecticut Association of Ambulatory Surgery Centers](#). "In fact, surgery centers are held to the same level of scrutiny and regulation as hospitals and have extensive policies and procedures in place to ensure patient safety and reduce the risk of human error."



Michael Palmer Sr. died in May 2013, following a procedure at the Surgery Center of Fairfield County in Trumbull. This week, his son, Michael Palmer II sued the clinic on his late father's behalf, alleging negligence, corporate negligence and malpractice. The family is asking for damages in excess of \$15,000. Photo: Contributed Photo

A growing field

Outpatient surgical facilities are clinics where patients can go for a variety of procedures that are simple enough to be performed outside the hospital setting. The first freestanding surgery clinics opened more than 40 years ago, and since then the scope of procedures they can perform has expanded as medical technology and pain control have improved. Now, thousands of types of procedures are done at outpatient facilities nationwide, ranging from cataract surgeries and colonoscopies to orthopedic surgery, spine surgery and hip and knee replacements, according to the [Ambulatory Surgery Center Association](#), the national group representing these clinics.

Surgery centers perform more than 25 million procedures a year. There are more than 5,000 of these clinics nationwide, including 61 in Connecticut.

As the healthcare landscape changes, more patients are turning to these facilities, often finding them faster, cheaper and more user-friendly than a hospital, said [Lisa Freeman](#), executive director of the [Connecticut Center](#) for Patient Safety. "We're looking for different ways to provide high-quality, safe service," Freeman said. "As a consumer, I never want to be in a hospital if I don't need to be."

But, she said, the deaths of Rivers, Palmer and others highlight the possible risks of these sorts of facilities. In 2013, the year Palmer died, the state department of public health reported 20 "adverse events" -- defined as incidents where a patient dies or is injured as the result of a medical intervention, rather than the underlying medical condition -- at outpatient facilities in the state. The most common type of problem at these facilities was perforation during surgery resulting in injury or death.

The number of events at these facilities has risen over time, from three such incidents in 2004 to eight in 2009, to 15 in 2012. However, such problems are more common at hospitals. In 2013, for example, there were 487 adverse events at acute care hospitals in the state -- more than 20 times the number at outpatient facilities.



A photo of Michael Palmer Sr. as a young man. Palmer died in May 2013, following a procedure at the Surgery Center of Fairfield County in Trumbull. Photo: Contributed Photo

`Should never happen'

Yet Koskoff and others said there is a risk associated with outpatient facilities taking on procedures that should probably be handled by hospitals. The surgery Palmer had, for example, an anterior discectomy and fusion, is a spinal procedure done through the front of the neck is "an extremely delicate operation" that Koskoff alleges should never have been done at the Surgical Center.

The Palmers' lawsuit claims that Michael Palmer, Sr. wanted to have his surgery done at [St. Vincent's Medical Center](#) in Bridgeport, but was told by the owner of the Surgery Center of Fairfield County that his insurance wouldn't cover the procedure there, and it had to be done at the outpatient facility.

During Palmer's surgery, the suit alleges, a medical assistant pressed against a blood pressure cuff causing a drop in the blood pressure reading. At that point, the anesthesiologist allegedly administered a 4 percent Lidocaine solution, a toxic agent, mistaking it for another medication. When Palmer reacted to the substance, he was given CPR and rushed to St. Vincent's, where he died.

The suit claims, among other things, that the clinic "failed to provide a properly set up operating room with the necessary anesthetic agents, properly labeled, organized and readily available." Koskoff said it seems clear that the clinic wasn't prepared to handle a procedure of this nature.

"This should never happen, and it's hard to believe it would happen in a hospital," he said.

The center is run by [Surgical Care Affiliates](#), LLC, operator of about 185 surgical centers nationwide. When contacted for comment, the company responded with a statement saying that "the Surgery Center of Fairfield County's sympathies are with the family of Mr. Palmer." The company wouldn't comment further, claiming federal regulations prohibited them from discussing clients, but the statement added that the Trumbull facility "is a licensed and Medicare-accredited surgery center dedicated to providing high-quality healthcare service."

Concerns about care

Both Koskoff and Freeman said they have several reservations about the way certain clinics are run, including the fact that so many of them are physician-owned. According to the Ambulatory Surgery Center Association, about 90 percent of ASCs are at least partially owned by physicians, and 65 percent are solely owned by physicians. The association claims that physician ownership improves patient experience by reducing wait times and allows for greater specialization.

But Koskoff said he finds this disconcerting. "There is a built-in conflict of interest, between the doctor who owns the center and the best interest of the patient," he said.

Another worry he has is that these clinics often aren't equipped to handle emergencies. For instance, when Palmer's case turned dire, he had to be taken to an emergency room. "If this is going to be a surgical center, they need to be prepared for adverse events," Koskoff said.

Rosenquest, meanwhile, said the clinics are prepared for emergencies, and part of that preparation involves transferring patients to a hospital if additional care is needed.

Some have expressed worries that ambulatory surgical centers aren't as heavily regulated as hospitals, but the state Department of Public Health confirmed that ambulatory surgical centers are required to report adverse events, including incidents that cause death and disability, the same way that hospitals are.

Despite all these reservations, both Freeman and Koskoff said ambulatory centers can play a vital role in health care, when care is properly administered. "This is not a sweeping indictment of surgical centers," Koskoff said. "They can be safe. They can be cost-effective. At the same time, there's a problem here that needs to be addressed."