

Abuse: Charges Against Aide Overturned.

The Court of Appeals of Minnesota threw out charges of patient abuse filed against an aide in a nursing home and ordered her name removed from the state registry of persons barred from patient-care work because of abuse.

The nursing director's sloppy initial investigation never pinned down the exact time or even the date when the alleged abuse occurred. Thus it was not possible to correlate who was on duty, in what part of the facility, who was assigned to work with whom, who was on break when, etc.

The patient, who suffered from confusion, was really not able to distinguish which of two similar-looking caregivers who usually worked with her was the one she wanted to accuse of handing her roughly in a dependent transfer.

The patient was on Trental, a blood-thinner which made her susceptible to bruising. The bruises on her wrists did not necessarily prove that anyone handled her roughly or abusively. [In re Abuse Finding, 2008 WL 125238 \(Minn. App., January 15, 2008\).](#)

Hoyer Lift: Patient Dropped.

A lawsuit in the Circuit Court, Cook County, Illinois resulted in a \$350,000 jury verdict for a disabled nursing home patient dropped from a Hoyer lift.

The staff member trying to move the patient apparently was not trained how to use the device and failed to get help, or just did not know enough to get some help.

The patient was too severely disabled to communicate effectively how it happened, but the jury apparently did not need to hear from her to rule in her favor. [Shelly v. Bethshan, 2007 WL 4374509 \(Cir. Ct. Cook Co., Illinois, October 18, 2007\).](#)

Federal False Claims Act: Nurse's Suit Over Patient-Care Issues Dismissed.

A registered nurse was unsuccessful in obtaining a satisfactory resolution of patient-care issues she presented to hospital management.

She had expressed concern about alleged nurse understaffing and use of non-licensed personnel for professional nursing tasks like circulating in the operating room.

She sued her by-then former employer under the US False Claims Act.

The purpose of the False Claims Act is to provide restitution to the government for money taken by fraud.

A private individual can sue on behalf of the government for false or fraudulent claims for payment.

UNITED STATES DISTRICT COURT
TENNESSEE
December 17, 2007

The US District Court for the Western District of Tennessee dismissed her case.

Even if it was true that the hospital was violating Medicare conditions of participation, conditions of participation and conditions of payment are two different things, the court said.

Patient care which in someone's opinion does not meet professional standards is not "worthless care." That term refers only to bilking Medicare or Medicaid by billing for things that plainly were just not done.

The US False Claims Act lawsuit is not a useful vehicle for resolving patient-care issues. [US v. Baptist Memorial Healthcare, ___ F. Supp. 2d ___, 2007 WL 4380006 \(W.D. Tenn., December 17, 2007\).](#)

Post-Surgical Care: Nurses Faulted Over Reports To Physician.

A \$600,000 settlement of a lawsuit filed in the Superior Court, Los Angeles County, California was reported with the condition that the names of the patient and hospital remain confidential.

The forty-six year-old patient had surgical repair of an old incisional hernia left from her hysterectomy.

After the procedure the patient complained to her nurses about unusually severe pain at the surgical site.

The patient also told the nurses the pain had spread down her left leg.

When the nurses got her out of bed to ambulate her, her left leg gave way.

The nurses reported the unusually severe pain at the surgical site to the surgeon. The nurse did not mention that the pain had spread down the left leg or the fact the left leg had given out during attempted ambulation.

The surgeon gave an order for the patient to stay overnight.

Radiating Pain Not Reported to Physician

During the night the nurses continued to chart progress notes about the severe pain and the fact it was radiating down the patient's left leg.

It was not until morning, however, that the nurses informed the surgeon about the radiating pain and the fact the patient, by then, was unable to stand and walk.

The surgeon called in a neurologist who got an MRI which confirmed compression damage to the femoral nerve. To correct it the surgeon re-did the incisional repair, this time without surgical mesh.

The patient has had ongoing problems with femoral nerve damage, confirmed with nerve conduction studies, which has not resolved with time. [Confidential v. Confidential, 2007 WL 4208529 \(Sup. Ct. Los Angeles, California, August 29, 2007\).](#)