

Nurse As Patient's Advocate: Nurses' Inaction Had No Effect On Outcome, Court Says.

The Court of Appeals of Michigan dismissed the patient's lawsuit. The lawsuit alleged that the hospital's nurses failed to report his condition to the attending physician and failed to advocate for changes in his treatment plan.

The court pointed out there was no proof offered on the patient's behalf that, in fact, the attending physician would have taken a different course if the nurses had advocated for it.

The only relevant evidence was the testimony of the physician who took over as attending ten days later. He said there was nothing the nurses could have pointed out that the earlier attending physician did not already know at the time and no reason at the time for the physician to have changed the plan of care. **Martin v. Ledingham**, __ N.W. 2d __, 2009 WL 196178 (Mich. App., January 27, 2009).

Post-Op Care: Neurosurgery Patient Had Eluded Restraints, Yet No Sitter Was Ordered.

The thirty-three year-old patient was admitted to a rehab facility following removal of a brain tumor at a nearby teaching hospital.

In rehab she fell out of bed twice and fell once from her wheelchair, each time after working herself free from restraining straps.

One-on-one supervision was reportedly allowed by the facility's policies in some cases. The deceased patient's family's expert witnesses were prepared to testify this was a situation clearly calling for such close supervision.

The patient died following unsuccessful surgery to correct an cranial hematoma from head trauma from the last fall. The family's lawsuit filed in the Superior Court, Essex County, New Jersey settled before trial for \$850,000. **Kimble v Kessler Inst.**, 2008 WL 5574834 (Sup. Ct. Essex Co., New Jersey, December 15, 2008).

Call Light Not Answered, Patient Falls, Dies: Nursing Facility Found Liable To Patient's Family.

The eighty-seven year-old patient was placed in the facility for recovery from spinal surgery.

The family had researched the issues carefully while trying to find a suitable placement. A representative of this facility and a hospital discharge planner both assured them this facility had exceptional call-light response times, usually within two to three minutes.

The patient, already set for discharge later that day, called for help to the restroom. No one responded. She could not wait so she got up on her own. She fell and twisted her ankle.

X-rays were taken which staff interpreted as negative. The patient was discharged as planned. Two days later her physician found two fractures on the x-rays and scheduled surgery.

Two- to three-minute call-light response times were among the promises made in the brochure given to the family by the nursing facility's admissions counselor. In fact, the facility had been cited numerous times by the state department of public health for negligent fall-prevention practices and for delayed call-light responses leading to injury accidents.

DISTRICT COURT, LARIMER COUNTY
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The patient never recovered from the surgery.

The family's lawsuit alleged negligence for failing to respond to her call light promptly.

The lawsuit went on to allege violation of the state's consumer protection act and breach of contract based on alleged misrepresentations made before admission as to the high quality of care.

The jury in the District Court, Larimer County, Colorado awarded the family \$375,000. The verdict was reduced to \$300,000 because of Colorado's cap on non-economic damages and then further reduced to \$225,000 based on contributory negligence by the patient herself. **Wolfe v. Canyon Sudar Partners**, 2008 WL 5568178 (Dist. Ct. Larimer Co., Colorado, September 15, 2008).