

# LEGAL EAGLE EYE NEWSLETTER

July 2000

*For the Nursing Profession*

Volume 8 Number 7

## Bed Rails Up Or Down: Court Says When It Is A Professional Nursing Judgment.

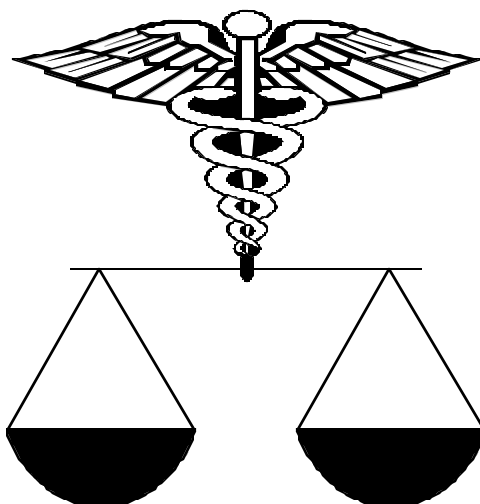
The patient spent three days in the hospital. During that time she was shaky, uncoordinated and disoriented, had difficulty ambulating and required assistance to get out of bed to use the restroom.

On the third night she fell out of bed and hurt her knee. At the moment she was not being attended, was not physically restrained and did not have the side rails raised on her hospital bed.

The Court of Appeals of Minnesota did not elaborate any further on the facts. It did not have to. The lawsuit against the hospital alleging nursing negligence was filed three weeks later than the statute of limitations for medical malpractice. The court ruled it was a professional malpractice case and dismissed the case. If it were a common, ordinary garden-variety negligence case the statute of limitations would have been several years longer.

The court upheld the hospital's policy of leaving it to the nurse's discretion in some circumstances whether to raise the side rails, based on assessment of the patient's status.

According to the court, it is a two-part legal analysis. Did the nurse assess the patient's status correctly and determine the patient's safety needs appropriately in that light? Then did the



***When caregivers make the judgment whether to raise the bed rails it must be based on an assessment of the patient's condition, including the patient's level of orientation.***

***This is a judgment which falls within the scope of professional education, training and licensure, since it is necessary to understand the patient's medical status.***

COURT OF APPEALS OF MINNESOTA,  
2000.

nurse take the indicated steps necessary to protect the patient?

The upshot is if the nurse did not, the law requires the patient to file a professional malpractice lawsuit, which is easier for the nurse's employer to win than an ordinary negligence case.

Hospital policy left the nurse no discretion and required the side rails raised for any patient who was unconscious or semi-conscious and when the bed was elevated.

The court noted other U.S. court cases saying when there is a physician's order to raise the side rails it is no longer up to the nurse's discretion. In that case there is no room for the nurse to exercise independent professional judgment, and it is ordinary negligence not to take the simple step necessary to carry out the physician's order, according to the court.

The same would be true when a nurse has made the decision the side rails need to be raised, and a non-licensed person fails to carry out the nurse's directions. A non-licensed nurse's aide would not have any discretion, and the employer facility would be liable for the aide's negligence in failing to follow a simple instruction from the nurse. **Henderson v. Allina Health System**, 609 N.W. 2d 7 (Minn. App., 2000).

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