

LEGAL EAGLE EYE NEWSLETTER

August 2002

For the Nursing Profession

Volume 10 Number 8

Bed Rail Down: High-Risk Patient Got Out Of Bed And Fell, Court Finds Negligence.

The eighty-six year-old patient was admitted through the emergency room of an acute care hospital for respiratory problems.

She had been diagnosed with Alzheimer's and had full-time home attendants upon whom she relied for help to walk, go to the bathroom and feed herself. She also needed to be kept from wandering from her home as she would get lost if she went out alone.

High-Risk Assessment In Hospital

Because of her Alzheimer's she was classified as high-risk for falling. For high-risk patients the hospital had a fall/injury prevention protocol.

The protocol required the nursing staff, throughout the patient's hospitalization, to assess and re-assess the patient's physical and mental condition, including medications that could dim the patient's thought processes.

A safety alert sign was to be posted above the bed, the patient was to be checked every two hours, the bed was to be kept in the lowest position and all bed rails were to be up at all times. Only a physician's order could override the protocol for high-fall-risk patients.

A nurse found the patient face down on the floor in the hallway at 7:00 a.m. One bed rail was down when the nurse put her back to bed.



As a general rule a hospital is not liable for negligence for failing to erect the bed rails absent a doctor's express medical order to raise the bed rails.

However, the general rule does not apply after the hospital establishes a rule that bed rails are to be raised at all times for a particular class of high-risk patients.

NEW YORK SUPREME COURT

June 4, 2002

The New York Supreme Court, Kings County, ruled there were grounds for a negligence lawsuit.

Violation of Internal Protocol Is Evidence of Negligence

When a healthcare provider disregards or intentionally violates the institution's own internal patient-care protocols, it is evidence of negligence.

There is still room for argument that there may have been a good reason for not following procedures.

The hospital argued that keeping all four bed rails raised would amount to a physical restraint, that restraints could not be applied without a doctor's order and there was no doctor's order to restrain this patient. The court was not persuaded by that argument.

Patient Found On Floor Bed Rail Down

The patient being found on the floor and the bed rail being down proved to the court's satisfaction a hospital employee lowered the bed rail and the patient was able to get out of bed because the bed rail was down. It was not likely, the court believed, that this patient herself lowered the bed rail or that she climbed over the rails that were raised. **Pedraza v. Wyckoff Heights Medical Center**, __ N.Y.S.2d __, 2002 N.Y. Slip Op. 22094, 2002 WL 1364153 (N.Y. Sup., June 4, 2002).

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