

Bed Rails: Court Discusses Legal Liability Considerations.

The Court of Appeals of Michigan used a seemingly straightforward bed rail case as a springboard to touch on many of the legal issues now being seen in these cases.

The case involved a nurse who apparently left the bed rails down after taking vital signs at 3:00 a.m. and the patient ended up on the floor.

Professional Malpractice versus

Ordinary Negligence

Courts are saying that the decision to raise or leave down the bed rails is a matter of a caregiver's professional judgment.

The legal upshot is that such cases cannot be submitted to a jury of untrained lay persons without expert testimony. Some states also require the patient's attorney to file an affidavit of merit or an expert witness's report or to go before a medical review panel before a malpractice case can be filed in court.

Bed Rails as Physical Restraints

Courts are saying that the bed rails are a physical restraint that require a physician's order based on individualized assessment of the patient's needs.

Positional Asphyxia

The risk of bed rail strangulation is a major patient-safety and legal-liability consideration.

Although not an issue in this case, the court pointed out that healthcare facilities have an obligation to train staff to be alert to a bed rail strangulation risk with elderly and infirm patients. Some of them may be prone to involuntarily movements which can put them in dangerous positions in bed from which they cannot remove themselves on their own. They need to be positioned securely with pillows, wedges, rolls and/or restraints to keep them out of the bed rails which can pose a significant hazard. **Jackson v. Harper Hosp., 2006 WL 2613599 (Mich. App., September 12, 2006).**