Patient's Fall: Circumstantial Evidence Points To Nursing Negligence, Court Lets Lawsuit Go Forward.

The patient's chart did not contain any explicit documentation of her falling in her hospital room.

The nurses who cared for her testified in court they had no specific recollection of caring for her and could only say in very general terms what their nursing progress notes meant.

The patient herself did not remember falling, nor was her husband able to testify that he witnessed her fall.

Nevertheless, the Court of Appeals of Ohio saw grounds to accuse the patient's nurses of negligence, based on circumstantial evidence that the Court was able to piece together from the chart.

Circumstantial Evidence

The patient showed good strength in both arms albeit with some weakness when the nurse assessed her at 8:30 p.m. that night. That had not changed since the time of the nursing assessment done when she was admitted two days earlier. Her routine admission chest x-ray showed no sign of a shoulder fracture.

At 2:30 a.m. the nurse obtained an order for restraints. The patient had been anxious and irritable when assessed at 8:30 p.m. the evening before.

At 3:30 a.m. the nurse noted that she restrained the patient, although the exact details were not in the chart. The nurse could only speculate later in court that it probably would have been a four-point soft handcuff restraint. Or maybe it was a vest restraint or maybe she just put up all four of the bedrails. She really did not know

At 4:30 a.m. the hysterical patient was agitated, restless and uncooperative, climbing out of bed and pulling on her IV. The nurse could only speculate that what happened was that the restraints were removed so that the patient could use the restroom.

At 4:13 p.m. the physician treating the patient's jaw got back the new x-ray of her shoulder and compared it with the old view of her shoulder in her admission chest x-ray. There was a new fracture in the shoulder. He testified in court it was unlikely she could have pulled at her IV as noted by the nurse in the early a.m. hours if her shoulder was already broken at that time.

One of the night nurses testified a nurse sometimes obtains an order for restraints but then uses his or her judgment whether or not to restrain the patient, based on the patient's current assessment.

However, according to the Court, there was no documentation of any relevant assessment data in the early a.m. or of any such exercise of nursing judgment.

There was no nursing documentation how and why the patient needed to be restrained, was restrained, then was not restrained, was able to try to get out of bed and then later that same afternoon had a new injury entirely consistent with trauma from a fall. The patient had the right to go forward with a lawsuit against the hospital.

Slenker v. St. Elizabeth Health Ctr., 2010 WL 5541692 (Ohio App., December 21, 2010).

The patient was admitted with a fractured jaw from a fall at home. Soon after admission she began to experience psychological and behavioral problems related to bipolar disorder.

At 2:30 a.m. a nurse obtained an order for restraints. The patient had been anxious and irritable.

At 3:30 a.m. a nurse restrained the patient.

At 4:30 a.m. the patient was agitated, restless, uncooperative and hysterical and was pulling on her IV and climbing out of bed.

Later that afternoon an x-ray taken because she complained of pain revealed she had a fractured shoulder.

The only explanation is that the patient fell during the early morning hours while unrestrained, due to a negligent error or omission by the nurse or nurses assigned to care for her.

COURT OF APPEALS OF OHIO
December 21, 2010