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# LEGAL EAGLE EYE NEWSLETTER

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## Patient Falls, Develops Decubitus Ulcer: Court Upholds Verdict For Negligence.

The elderly patient was admitted to the hospital with numerous medical problems including diabetes, hyperglycemia, diabetic retinopathy, neuropathy, peripheral vascular disease and hypertension.

Her right leg had been amputated below the knee.

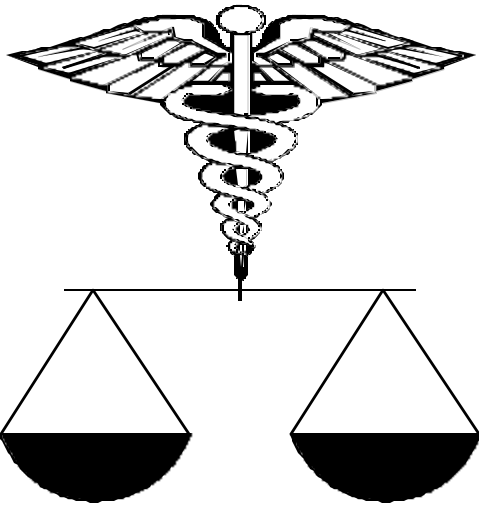
The specific reason for admission was to be close to her dialysis treatments for end-stage renal disease.

She was placed in a chair near the nurses station during a bout of confusion from her dialysis. Unrestrained, she tried to stand, fell and fractured her right hip.

After surgery for the hip she developed a sacral bedsore that progressed to an infected Stage III decubitus. Eventually the family stopped dialysis and she passed away from renal failure.

The family sued for nursing negligence. The Court of Appeals of Kentucky approved the jury's verdict awarding medical expenses (reduced post-trial to eliminate double recovery from Medicare) and punitive damages. The Court also upheld the jury's award of zero compensation to the family for the deceased's pain and suffering.

The verdict was for negligence leading to her fall and negligence leading to her skin breakdown.



***A nurse can testify it is a personal habit and the institution's routine practice to turn patients every two hours on patient-safety rounds.***

***However, the medical records will be used as evidence. The lawyers can probe the records and question the nurses for specific chart references showing that the patient was actually turned.***

COURT OF APPEALS OF KENTUCKY  
February 6, 2004

### **Habits and Routine Practices Nursing Documentation**

As a general rule the courts accept testimony about a person's habits or an institution's routine practices. A nurse can testify after the fact that he or she out of habit turns and repositions patients as necessary and that it is routine institutional practice to do so.

However, in this case the patient's chart did not show turning actually being done q 2 hours. This deficiency in the charting supported the family's allegations of nursing negligence.

A jury is not required to accept testimony about nurses' personal habits or the facility's routine practices in the face of ambiguous charting as to habits and routines actually being followed.

### **Delays in Treatment**

The chart also pointed to a glaring two-day delay in getting the air mattress after the physician ordered it based on the nurses' own skin-breakdown assessment and the advice of the wound-care nurse.

Delays were also obvious directly from the patient's chart in how promptly the wound-care nurse responded to requests for consultation, according to the court. ***Thomas v. Greenview Hosp., Inc.***, \_\_ S.W. 3d \_\_, 2004 WL 221198 (Ky. App., February 6, 2004).

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