

LEGAL EAGLE EYE NEWSLETTER

February 2008

For the Nursing Profession

Volume 16 Number 2

Patients' Falls: Nurses Ruled Not Negligent Based On Solid Nursing Documentation.

The Superior Court of New Jersey, Appellate Division, agreed with the jury's ruling exonerating the hospital's nurse from allegations of negligence.

Patient's Testimony

The patient testified she rang her call buzzer for thirty to forty-five minutes for help to get up to the bathroom, then got up on her own, leaned on a rolling tray table, fell and broke her hip.

Nurse's Testimony

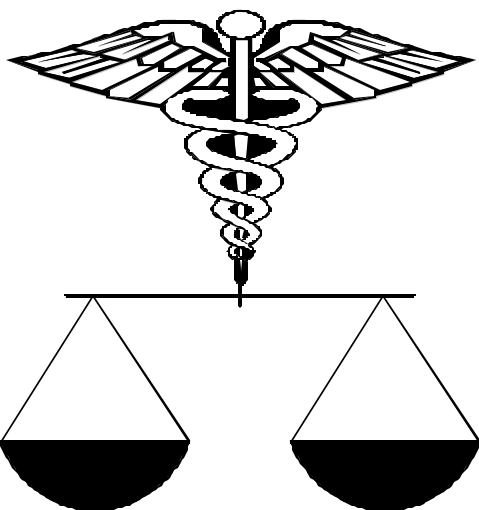
Based on Progress Note

The nurse talked with the patient and wrote a progress note right after the fall about why the patient herself believed she had fallen. The patient said she wanted to get up and see what was going on on the other side of the room and tripped on the leg of the tray table. She never mentioned her call bell not working or not being answered.

High Fall Risk Designation Expired

The first three days after her liver biopsy the patient was handled as a high-fall-risk. She fell the next day.

Her physician had written an order for *ad lib* bathroom privileges. Technically she was no longer a high fall risk while still being kept in the hospital just for observation for possible drainage from the biopsy site. **Bogner v. Rahway Hosp.**, 2008 WL 89944 (N.J. App., January 10, 2008).



The fall precautions that are supposed to be observed while the patient is a high fall risk are not relevant to the time period after the patient has recovered from her post-surgical medications to the point her own safety awareness has been restored and she is able to make rational safety decisions on her own.

SUPERIOR COURT OF NEW JERSEY

APPELLATE DIVISION

January 10, 2008

The jury in the Superior Court, Los Angeles County, California returned a defense verdict for the hospital.

The sixty year-old patient was in the transitional care unit for rehab of a pelvic fracture from a fall at home. He fell again in the hospital and suffered a new right hip and right femur fracture.

Patient's Version of Events

The patient claimed his medications had made him disoriented and his nurses knew that he had been trying to get out of bed on his own. He claimed he used his call light to call for help to the bathroom, and when no one responded he got up on his own and fell. He testified he was supposed to have non-slip hospital gripper socks but instead was wearing ordinary socks at the time he fell.

Nurses' Version of Events

The nurses had documented their assessment of the patient's mental status relative to fall risk. He had enough safety awareness to know he needed to call and wait for assistance before trying to get out of bed. Restraints are not appropriate for a patient with sufficient mental status to possess adequate safety awareness.

According to the nursing testimony, the patient did not call for assistance before he fell. **Persing v. Unnamed Hospital**, 2007 WL 4590654 (Sup. Ct. Los Angeles Co. California, December 12, 2007).

Inside this month's issue ...

February 2008

[New Subscriptions](#)

See Page 3

Patient Falls/Nursing Documentation - Faulty Transfer
DNR Order Ignored - Shower Chair/Transport/Fall - Sexual Assault
Original Chart/Hospital Property - Cardiac Monitor Alarm
Labor Law/Mandatory Flu Vaccination - Involuntary Psychiatric Hold
IM Injection Technique - Pregnancy Discrimination - NG Tube
Vitamin K Injection - Betadine Burn - Dementia/Vehicle Transport
Hoyer Lift - Patient Abuse - Post Surgical Care - False Claims Act
Geriatric Sex/Privacy/Abuse - Post-CABG/Turning/Skin Integrity