

# LEGAL EAGLE EYE NEWSLETTER

August 2014

*For the Nursing Profession*

Volume 22 Number 8

## Patient Fall: Cognitively Impaired Patient Was Told To Stay Seated, Left Alone On The Toilet.

The seventy-two year-old patient was admitted to a psychiatric facility to adjust her medications in an inpatient setting.

On admission to the unit a nurse completed a fall-risk assessment. Factors taken into consideration included a history of dementia. The patient's evaluation revealed current delirium, impaired cognition, poor insight and judgment, sensory impairments including cataracts and hearing loss, weakness and unsteady gait.

The patient was deemed to be a fall risk and the nursing care plan required her to be assisted to the bathroom if she got up during the night.

It was undisputed that the patient's nursing caregivers on the night in question were aware of the nursing care plan's requirement for assistance.

When a lawsuit was eventually filed against the facility for the patient's injury from her fall, the statute of limitations had already elapsed.

The judge nevertheless allowed the lawsuit to go forward on the grounds that the patient was mentally incompetent when the incident arose which gave rise to her lawsuit, accepted legal grounds for extending the statute of limitations.

The lawsuit resulted in a jury verdict for the patient against the facility.



***The patient had impaired cognition, poor insight and judgment, weakness and unsteady gait.***

***She had been assessed as a fall risk.***

***Orders and a nursing care plan were in place for her to be assisted to the bathroom.***

***Her caregivers simply told her to stay seated and left her alone in the bathroom.***

COURT OF APPEALS OF GEORGIA  
July 15, 2014

On the night in question the patient's bed alarm was triggered when she started climbing over the bed rails to get up to go to the bathroom.

Her nurse and an aide went to the room, helped her out of bed, got her slippers for her and then side-by-side walked her toward the bathroom.

On the way the patient urinated on the floor. They proceeded to the bathroom, sat her down and told her to stay seated while they cleaned up the floor.

The nurse and the aide left the patient alone in the bathroom while they went for towels to wipe the floor.

While the nurse's back was turned the patient stood up, walked into her room, slipped on the area that was still wet, fell and fractured her ankle. She had to be taken to an acute care hospital in an ambulance.

### **Court Finds Negligence**

The Court of Appeals of Georgia ruled it is negligence for caregivers who are aware of a patient's fall risk due to mental and physical infirmities, for whom orders and a care plan are in place for assistance to the bathroom, to leave the patient alone and unattended simply with instructions to the patient to remain seated and wait for them to return before trying to stand up. **Emory Healthcare v. Pardue**, \_\_ S.E. 2d \_\_, 2014 WL 3409186 (Ga. App., July 15, 2014).

Inside this month's issue...

**August 2014**

New Subscriptions  
See Page 3

Fall/Nurse Left Patient Left Alone On Toilet - Fall/Nursing Negligence  
Speech Impaired Patient/Disability Discrimination - Labor & Delivery  
Delegation Of Nursing Responsibility - Nurse Whistleblower  
Nurse/Discrimination/Social Security Disability - Impaired Nurse  
Skin Care/Nursing Negligence - Correctional Nursing  
Emergency Department/Nursing Neglect - Breast Cancer  
Labor & Delivery Nursing/Prolapsed Cord/Nursing Assessment  
US False Claims Act - Nursing Assistant/Pregnancy Discrimination