

## Fall: No Evidence For Case Against Nurses.

The day after gastric bypass surgery two nurses transferred the patient from his bed to the reclining chair in his hospital room.

After placing the patient in the chair, one of the nurses attempted to recline the chair from the fully upright position backward to a more relaxed position that would be more comfortable for the patient. Instead of reclining back to the first position the chair abruptly dropped all the way back to the fully flat supine position.

The patient sued claiming his back was injured. The Court of Appeal of Louisiana ruled the patient did not have evidence for his case.

The patient did not come forward with any evidence that the standard of care for nurses caring for a post-surgery patient requires the nurses to check the mechanical functioning of a chair before attempting to place the patient in the chair. That is, although a medical facility has certain legal duties toward its patients, this particular task is not necessarily a nursing function. **Blood v. Southwest Med. Ctr.**, \_\_ So. 3d \_\_, 2012 WL 5417296 (La. App., November 7, 2012).

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The patient was in the hospital receiving care for alcohol abuse.

He slept most of his second day in the hospital. The next day shortly after he awoke he fell out of bed and injured his hip.

The patient sued claiming that his nurses' negligence caused his fall. Specifically he alleged the nurses did not latch the side rail, failed to inspect the side rail to ascertain that it was properly latched and placed the call button in an awkward position for him to be able to reach.

The US District Court for the Northern District of Texas ruled the patient did not have evidence for his case.

Having just awoken right before he fell, the patient had no direct proof that any of the factual assertions raised in his lawsuit were in fact true.

The basic fact that he fell out of bed, in and of itself, did not prove that his nurses departed from the standard of care in the care given to him or that such a departure caused him to fall. **Quile v. Hill-Rom Co.**, 2012 WL 5439904 (N.D. Tex., November 7, 2012).

## Medical Confidentiality: HIPAA Prevents Patient's Caregivers From Speaking With Attorneys.

The family sued the nursing home where the patient had lived, alleging that nursing negligence resulted in an infected decubitus ulcer from which the patient died.

The nursing home's lawyers wanted to interview medical and nursing personnel from two acute care hospitals where the patient had been transferred for wound-care management and treatment.

To speak with a patient's caregivers the nursing home's lawyers realized they needed either a signed authorization from the executor of the deceased patient's probate estate, or a qualified protective order from the court which would allow them to interview the patient's caregivers and at the same time set the permissible parameters for such communication.

**No healthcare provider may disclose protected healthcare information unless there is written authorization from the patient or the patient's legal representative, a proper court order or a properly drawn up subpoena.**

**Healthcare information refers to information, oral or recorded, in any form or medium that relates to a past, present or future healthcare condition.**

COURT OF APPEALS OF GEORGIA  
November 16, 2012

The Court of Appeals of Georgia acknowledged that the US Health Insurance Portability and Accountability Act (HIPAA) strictly forbids caregivers from disclosing confidential information, including medical charts and records, or even from speaking directly with anyone about the patient unless there is strict compliance with Act's legal requirements.

In this case the Court ruled that the proposed qualified protective order drawn up by the nursing home's lawyers was too vague. It did not protect the patient's privacy by preventing the lawyers from delving into subject areas that might give them ammunition for their case but were not strictly related to the management and treatment of her infected decubitus. **Tender Loving Care v. Ehrlich**, \_\_ S.E. 2d \_\_, 2012 WL 5857431 (Ga. App., November 16, 2012).