

Nurse Assists Patient From Bathroom Without Assistance: Hospital Liable For Patient's Fall.

A patient with a complicated medical history was in the hospital recovering from a recent bone marrow harvest. She was in extreme pain, according to the court record. She was assisted to the bathroom commode by an RN. The patient's husband summoned help when the patient complained to him she was feeling lightheaded and nauseous. An LPN, acting alone, attempted to assist the patient from the commode back to bed. However, the patient fell and sustained a humeral fracture in which avascular necrosis developed.

The patient sued the hospital, alleging it was negligent for the LPN not to have summoned appropriate assistance, i.e. a second person, to assist the patient from the commode to her bed, and claimed that this negligence was the cause of the patient's fall and injury.

The Supreme Court of Delaware agreed the hospital should be held liable for negligence. It upheld the lower court's substantial jury verdict in favor of the patient, which was based on the testimony of a nurse who was called as an expert witness at trial on the patient's behalf. The nurse testified as an expert witness that the standard of care for assisting a patient under these circumstances mandates that adequate assistance be obtained to prevent the patient from falling. That is, when there is any question regarding the patient's safety during any transfer maneuver, the person assisting the patient should take the precaution of summoning a second person to assist. In this case, the testimony was that a second nurse should have been summoned before the patient stood up. Medical Center of Delaware, Inc. vs. Lougheed, 661 A. 2d 1055 (Del., 1995).

A nurse may testify in court as an expert witness on the standard of care for nursing practice.

The law states that no person shall be competent to give expert medical testimony as to applicable standards of skill and care unless such person is familiar with that degree of skill ordinarily employed in the community or locality where the alleged malpractice occurred, under similar circumstances, by members of the profession practiced by the health care provider.

An expert witness need not be licensed by the state where he or she will testify. It is not necessary that an expert be a physician.

The nurse/expert witness in this case could demonstrate familiarity with the practice of post-surgical nursing, having worked at the defendant institution and elsewhere where she cared for patients and observed other nurses in practice. She had taught nursing student, read national journal articles on post-surgical nursing, attended nursing seminars, reviewed the specific language of the state's nursing practice act, conducted medical records reviews in other forensic nursing matters, and had previously been accepted as an expert witness and testified in court as an expert on nursing standards.

SUPREME COURT OF DELAWARE, 1995.

Patient Arises From Bed And Falls: Hospital Not Liable.

Despite the best efforts of the hospital's nursing staff to keep a confused elderly patient safe in bed, the patient arose from bed, walked into the hallway, fell and fractured her skull, and died several days later.

The Court of Appeals of Louisiana reviewed the evidence and concluded that the the efforts of the nursing staff to assess, monitor and restrain this patient demonstrated full compliance with the standard of care. There was no negligence on their part, and the hospital was absolved of legal liability.

In general, according to the court, "It is the hospital's duty to protect a patient from dangers that may result from the patient's physical and mental incapacities, as well as from external circumstances peculiarly within the hospital's control. A determination of whether a hospital has breached the duty of care it owes to a patient depends upon the circumstances and the facts of the case."

The nurses in this case raised and locked the bed rails, and lowered the bed as close to the floor as possible. They tied the call button to the bed rails where the patient would easily be able to find it. They warned the patient not to get up by herself, but to use the call button to summon assistance. They placed a sign by her bed to remind her not to get up by herself.

Working in conjunction with the attending physician, the nurses increased the level of precautions. They restrained her in a Posey vest, which had to be retied under the bed when they found the patient could untie it by herself if the Posey was only tied to the bed rails. The nurses instituted fifteen minute checks on the patient around the clock, and the door to her room was tied open so that any person passing the room could look in on the patient. They and the physician tried to enlist family members to serve as sitters, although none could be lined up in time before the incident in which the patient sustained her mortal injury. Borne vs. St. Francis Medical Center, 655 So. 2d 597 (La. App., 1995).