LEGAL EAGLE EYE NEWSLETTER
For the Nursing Profession

Patient Falls Out Of Bed: Where Was The Call Bell?

The patient was forty-six years-old and had cerebral palsy. He was in the hospital recovering from hip surgery.

His bed rails were down while he was eating breakfast. That made it easier to get his meal tray near him but also created a risk of him falling out of bed.

After he fell out of bed his sister made a claim on his behalf. The state medical review panel made a conditional ruling. If the bed rails were down and the nurse or aide did not properly position his call bell and he fell out of bed for that reason, he had grounds for a lawsuit.

His sister filed suit. The hospital made a motion for dismissal, basically to see if the patient's attorneys could file a sworn affidavit from the patient or another witness as to how he fell. They had no such affidavit and the Court of Appeal of Louisiana approved the lawsuit being dismissed. **Richardson v. Langiappe Hospital Corporation, 764 So. 2d 1094 (La. App., 2000).**

HMO's Incentives To MD's: Are They Negligent?

As a general rule patients cannot sue their health insurers or their HMOs over decisions that fail to allocate benefits.

However, the courts are chipping away at the general rule. The courts are allowing some patients' lawsuits to go forward when their lawyers say the right things in the lawsuit papers.

The US District Court for the Southern District of Ohio recently ruled that a patient and the patient's family can sue if they can prove it was negligent for their health plan to create financial incentives for participating physicians to limit the length of the patient's hospital stay or to limit the extent of diagnostic testing, if that unreasonably compromised the quality of care the patient received.

This area of the law is still very murky, as there is no clear precedent yet for what constitutes negligence in these situations. **Stewart v. Berry Family Health Center, 105 F. Supp. 2d 807 (S.D. Ohio, 2000).**

Patient Falls: Court Finds Nurses Fully Met The Legal Standard Of Care, Court Overturns Verdict.

A seventy-seven year-old patient was admitted to the hospital for observation for a heart condition. At night she became agitated and disoriented to her location.

Following the medical staff's orders, her nurses encouraged her to stay in bed and raised the side rails. She refused to stay in bed, so her nurses gave her medication to induce sleep. She continued getting out of bed, climbing over the bed rails and dragging with her all of the medical apparatus to which she was connected.

At 1:00 a.m. the nurses placed her in a vest restraint in bed. She managed to untie the vest restraint and was found in her room standing beside her bed. At 6:45 a.m. a chart note was written that her wrists had been restrained to keep her from untying the vest restraint and she was finally resting quietly in bed with the vest and wrist restraints.

At 7:20 a.m. she got free, climbed out of bed, fell and broke her hip.

She sued the hospital for negligence and she was awarded a civil jury verdict against the hospital. On appeal the Supreme Court of Alabama threw out the jury's verdict.

The nurses did everything they reasonably could. The Supreme Court accepted a nurse's testimony establishing that the patient's nurses fully met the legal standard of care for this patient. The hospital as their employer was not legally liable, even though the patient did fall and was injured. **Brookwood Medical Center v. Lindstrom, 763 So. 2d 951 (Ala., 2000).**

> ***The nurses met the standard of care for this patient, even though she fell.***
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> ***They reoriented her to her room when they put her to bed. When she climbed over the rails they gave her sleep medication, but she got up out of bed again. They put on a vest restraint but she untied it. They restrained her wrists to keep her from untying it and checked her every hour.***
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> SUPREME COURT OF ALABAMA, 2000.