

Fall: No Nursing Negligence, Lawsuit Dismissed.

There is no evidence the patient's nurses were negligent in any respect.

Further, there is no evidence this episode, even if it can be categorized as a fall, caused or contributed to the patient's death. She was transferred back to the hospital seven weeks later and died of heart failure.

The family's lawsuit merely alleges that facility personnel negligently dropped the patient in a transfer, then tried to cover up the incident, and the alleged cover-up caused the son grave concern over the quality of care being given to his mother.

A professional malpractice case has to be supported by evidence that the patient was injured by an error or omission which fell below the prevailing professional standard of care.

COURT OF APPEALS OF TENNESSEE
January 30, 2009

The Court of Appeals of Tennessee affirmed the local court's decision to dismiss the lawsuit the family had filed against the rehab facility, finding no nursing negligence.

The lawsuit alleged the deceased was "dropped and fell violently and painfully to the floor."

The adult son was prepared to testify his mother had told him that two nurses came into the room and tried to lift her to the commode, but all three fell at once and his mother hit the floor. Afterward the facility denied any knowledge of the incident whatsoever.

The son's testimony was overruled as hearsay.

The only creditable evidence, according to the court, was the sworn affidavit of the patient's nurse taken *verbatim* from the incident report she wrote up on the evening in question:

"On the evening of June 5, 2005, I was in Room 2229 with the patient, Betty Stratton. My purpose in being in the room was to assist her to a bedside commode. We were waiting for a second assistant to come help us when the patient slid off her bed into my arms. She did not strike the floor and I slowly lowered her to the floor. She was actually sitting on my feet when assistance came to the room and we lifted her onto the bedside commode. Mrs. Stratton did not fall to the floor. There was no visible injury as a result of her sliding off the bed into my arms." Luter v. Vanderbilt Stallworth Rehab Hosp., 2009 WL 230231 (Tenn. App., January 30, 2009).