

## Fall: Jury Decides Patient's Nurses Were Not Negligent.

The eighty-one year-old patient had to be readmitted to the hospital for abdominal pain four weeks after sigmoid resection surgery.

At the time of this admission his nurse assessed him as only a moderate fall risk. He was alert and able to ambulate independently and had no history of having fallen before in the hospital or at home. However, he did have lower extremity weakness bilaterally, had some memory loss and wore eyeglasses.

The nurse issued him a fall bracelet. Her initial care plan included reassessment at the start of every shift of his orientation and level of independent mobility and reminders to change position slowly and to request assistance to get out of bed. The bed was to be kept in the low position, his call bell was to be kept within his reach and he was to be checked visually at least every two hours.

He got narcotics during the night for sharp abdominal pain, but by morning his physician wrote orders he was ready for physical therapy. PT got him out of bed twice that p.m. and ambulated him more than 300 feet with contact assistance. His fall risk was scaled back from 6/10 to 4/10.

Late that night he was assessed as alert and oriented with no memory deficit. He was up in his room and getting to the bathroom independently without assistance and had a steady gait. His fall risk was scaled back to 3/10. He was given Ambien for sleep and checked at two-hour intervals.

At 4:50 a.m. his roommate pushed his own call button because there was a noise in the bathroom. The patient was found on the floor, awake but unable to speak. A quick assessment showed that his right arm and leg were flaccid. The medical response team came and took him for a CT, but he was already posturing before they got it done. He died later that day from a subdural hematoma sustained in the fall.

The jury in the Court of Common Pleas, Allegheny County, Pennsylvania ruled his nursing care was completely within the standard of care and absolved his nurses from allegations of negligence. **Estate of Williams v. Sewickley Valley Hosp.**, 2009 WL 4275232 (Ct. Comm. Pl. Allegheny Co., Pennsylvania, October 8, 2009).

***The hospital offered to pay the deceased's funeral expenses of \$7,115. That amount was the sum total of the jury's award at the conclusion of the trial.***

***The jury did not award damages against the hospital for nursing negligence leading to the patient's death.***

***The family's nursing expert testified the hospital's nursing staff failed to meet the standard of care by not providing the patient with a safe environment. The bed should have been placed against the wall with a floor mat next to the bed. A bed alarm should have been installed. Visual checks should have been more frequent than every two hours.***

***The hospital's nursing expert, on the other hand, testified that frequent nursing assessments demonstrated that the patient was consistently alert and oriented. He was not restless or agitated. He had never tried to get out of bed without needed assistance. A fall mat or bed alarm was not warranted.***

***A bad outcome, in and of itself, does not prove that the patient's caregivers violated the standard of care before the fact.***

COURT OF COMMON PLEAS  
ALLEGHENY COUNTY, PENNSYLVANIA  
October 8, 2009

## Fall: Court Sees Grounds For Negligence Suit.

The patient was residing temporarily in a long-term care facility recovering from surgery.

She was found on the floor in her room at 4:00 a.m. with injuries to her eyes and face and sent to the hospital for emergency surgery.

The family sued the nursing facility for providing negligent nursing care.

***There is little if any documentation how or exactly where in relation to her bed the patient was found on the floor.***

***There is also little or no documentation whether a nurse had attended to the patient or any other care had been provided for the patient in the hours before she was found on the floor.***

COURT OF APPEALS OF TEXAS  
December 9, 2009

The Court of Appeals of Texas ruled the reports prepared by the family's nursing and medical experts made out valid grounds for the lawsuit.

The nursing expert stated that fall precautions should have been implemented, that is, the bed should have been lowered, fall mats placed around the bed and a bed alarm put in place and activated.

### **Inadequate Nursing Documentation**

The Court discounted the facility's argument that the family's nursing expert's opinion was only a generic recital of some general principles of nursing care.

The patient's treatment records were wholly inadequate as to what, if anything, was being done by way of care planning or actual care for fall risk. There was also no record of any direct contact with the patient during the hours preceding her fall, how long she was on the floor or how it was discovered that she was lying there. **Regent Care v. Craig**, 2009 WL 4671323 (Tex. App., December 9, 2009).

## Fall: Elderly Patient's Estate Awarded Large Verdict.

An eighty year-old woman was involved in a motor vehicle accident in which three of her ribs were cracked.

Since she weighed only sixty-four pounds her doctor decided to admit her to a nursing home where supportive care would be available not just to help her recover from her injuries but also to regain her strength overall and put on some weight.

Five hours after admission to the nursing home she fell and fractured her hip while trying to get to the restroom unassisted. She was taken to a hospital for surgery, which was not successful, and she died in the hospital's ICU.

The family's lawsuit in the Superior Court, Fairfield District Court, Connecticut resulted in a verdict of \$1,453,177 after the jury discounted the damages for 5.9% for comparative negligence by the deceased.

Reportedly no treatment plan had been implemented for the patient on admission but one was created and inserted into her chart after she had already fallen in the nursing home and had died in the hospital. **Estate of Miller v. Darien Health Care, 2009 WL 4758488 (Sup. Ct. Fairfield Co., Connecticut, August 1, 2009).**

## Fall: Care Plan Was Violated.

An aide reportedly attempted to lift a patient into bed without help from a second staff person. The patient's femur was fractured in the process. The patient had to be taken to the hospital and died six days later.

The jury in the Superior Court, Buncombe County, North Carolina awarded \$300,000 to the family of the deceased.

The jury verdict was based on the fact that the femur fracture was a direct result of a clear violation of the patient's care plan which called for two-person assistance in transfers. The jury did not believe the injury was caused by the paramedics who were called to transport her to the hospital. **Estate of Odom v. Aston Park Health Care, 2009 WL 4758614 (Sup. Ct. Buncombe Co., North Carolina, August 21, 2009).**

## Lab Results Left Out Of Chart: Hospital Settles With Family Of The Deceased.

The patient was in a skilled nursing facility for rehab after knee surgery.

With a history of blot clots in her lungs her physician had her on Coumadin with routine orders for blood work to monitor her clotting factors.

Eight days after surgery the results of blood work came back from the lab showing an unacceptably high level of a clotting factor which should have been reported to the attending physician as an indication the Coumadin dosage needed to be stepped up or other medical follow-up was needed.

The patient's nurse, however, never contacted the physician or forwarded the lab results to him.

The patient died from blood clots in her lungs two days after the lab results came back.

After the patient died her nurse reportedly went back and made sure the lab test results were in the chart and also forged a back-dated progress note to the effect that she had contacted the physician when the lab results were first forwarded to her.

The facility basically admitted there was an error and negotiated a \$900,000 settlement in exchange for the family dropping their lawsuit filed in the Superior Court, Essex County, New Jersey. **Estate of Wells v. White House Healthcare, 2009 WL 4275203 (Sup. Ct. Essex Co., New Jersey, September 30, 2009).**

## Newborn Loses Fingertip: Nurse Ruled Negligent.

The jury in the Circuit Court, Calhoun County, Alabama deliberated only two hours before returning a verdict of \$125,000 for an infant who lost the tip of a pinky finger as a nurse was using her scissors to cut off his identification bracelet just prior to discharge from the nursery.

The hospital reportedly also wrote off an additional \$31,309.63 in medical expenses. **Pruitt v. Jacksonville Medical Ctr., 2009 WL 4577605 (Sup. Ct. Calhoun Co., Alabama, May 7, 2009).**

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