

LEGAL EAGLE EYE NEWSLETTER

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Patient's Fall: Nurse Ruled Negligent, Left Fall-Risk Patient Standing Alone With Walker.

The sixty-five year-old patient had had femoral artery bypass surgery just a few days earlier. The procedure involved entering the abdominal cavity to create tunnels through the groin to link the descending aorta to the proximal femoral arteries, to improve circulation in his legs.

The med/surg nursing staff assessed his fall risk several days post-op as 60 on the Morse Fall Scale. The Morse scale takes into consideration the patient's history of falling, medical diagnoses, use of ambulatory aids, presence of an IV, gait and mental status.

Although he did not have a history of falling, the largest weighted numerical component of fall-risk assessment, and he was alert and oriented, his overall weakness after a recent major open abdominal procedure, impaired gait and use of a walker per orders from his physical therapist qualified him as a significant fall risk patient.

The nursing fall-prevention care plan included bed rails up, use of the walker and assistance to ambulate.

The walker was kept in the corner of the room where the patient could not reach it by himself from the bed. He had to ring for someone to bring his walker to the bedside and then provide him with assistance to stand up and ambulate where he wanted to go.



The negligence in this case, that is, violation of the standard of care by the patient's nurse, falls within the sphere of common knowledge and would be obvious to any lay person sitting on a jury.

The nurse failed to attend to the needs of a known high-fall-risk patient who needed assistance to walk even short distances with a walker.

COURT OF APPEAL OF CALIFORNIA
December 22, 2009

The patient rang for a nurse to help him to the bathroom. A nurse came to the room, got the walker, brought it to the bedside, lowered the bed rails, helped him stand up, then told him he had to go and do something else and left him standing there.

After fifteen minutes standing and waiting, the patient took one step forward, lost his balance and fell backward, then lay there for two hours on the floor before he was found. The patient had a compression fracture in his back at the T-12 vertebral level.

The Court of Appeal of California accepted the patient's allegations of negligence under the "common knowledge" exception to the general rule that expert testimony is required as to the caregiver's standard of care.

The Court, however, dismissed the patient's allegation that the nurse tried to cover up his own negligence by giving the patient morphine, not for pain but hoping it would make him forget what had just happened, after he came back and found his patient on the floor.

The nurse candidly charted what really happened, that he left his patient standing alone and then came back and found him on the floor, which tended to negate any intent to stage a cover-up. **Massey v. Mercy Medical Center, 180 Cal. App. 4th 690, 103 Cal. Rptr. 3d 209 (Cal. App., December 22, 2009).**

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