

## Fall From Bed: Nursing Notes Prove No Negligence.

The eighty-three year-old patient had terminal cancer when he went to a nursing home from the hospital.

In the nursing home he was found on the floor in his room three times. The third time he broke his femur and went back to the hospital. With a No Code order in his chart he died within three days.

The administrator of his estate sued the nursing home for negligence. The attorney obtained an physician's expert witness report saying the nursing home left the bed rails down and did not use a bed alarm, and that caused the patient to fall.

The Appeals Court of Massachusetts, in an unpublished opinion, discounted the physician's report in favor of the nursing flow charting and progress notes.

The court determined the expert's report was based on "facts" that simply did not exist. The flow charting showed the bed rails were put up consistently and the progress notes indicated the patient himself was disconnecting his bed alarm. The lawsuit was dismissed. **Pludra v. Life Care Center of American, Inc.**, 2004 WL 42247 (Mass. App., January 8, 2004).

## Home Health: Court Sees Duty For Aides To Monitor, Report To Nurses On Psychosocial Issues.

**The home health nursing service had a contract to provide the patient with home health care.**

**Aides were required to ensure the profoundly disabled patient had a safe home environment.**

**Although the nursing service could not itself provide psychological evaluations or psychotherapy, the home health aides had a responsibility to appreciate that the patient was getting more depressed and that his drug and alcohol problem was accelerating.**

**The aides had a responsibility to report not only their patient's physical needs but his psychosocial needs as well.**

**That being said, however, it would be pure speculation to say his death was attributable to less than adequate home health care.**

COURT OF APPEALS OF UTAH  
December 26, 2003

The patient had a very traumatic on-the-job industrial accident in a mine which caused serious burns and required amputation of both his arms.

After a long stay in the hospital he went home. A home health nursing service was granted a contract by the state workers compensation department for 24/7 in-home nursing care. Eventually the patient recovered to the point he needed care only from home health aides employed by the same home health nursing service.

**Psychosocial Issues Should Be Reported**

Over time the patient became more and more depressed. His drug and alcohol problem worsened. His home health aides continued to provide good basic personal physical care and housekeeping services, but they did not discuss his worsening psychosocial situation with the nurses who supervised them who were ultimately responsible for the patient's care.

The patient was found dead in the driver's seat of his vehicle with the engine running and the garage door closed.

The medical examiner stated that carbon monoxide poisoning was the physiologic cause of death. It was never determined if it was a suicide, an assisted suicide or a homicide.

The Court of Appeals of Utah ruled it would only be speculation to say the aides' neglecting to report his worsening psychosocial condition actually caused his death and the family had insufficient grounds for a wrongful-death lawsuit. **Thurston v. Worker's Comp. Fund**, \_\_ P. 3d \_\_, 2003 WL 23011467 (Utah App., December 26, 2003).

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