

## Post-Katrina Care: Jury Says Hospital Not Liable For Patient's Death.

A patient was in the hospital experiencing an already difficult recovery from cardiothoracic surgery when Hurricane Katrina struck New Orleans.

The patient's condition declined gradually until his body temperature reached 107° F and he expired.

During the crisis immediately following Katrina the air conditioning was not functioning in the hospital. Nurses testified it was "ridiculously" hot in most areas and that the heat adversely affected the nurses and their patients.

---

***The hospital's facilities director testified his walk-through revealed that all patient rooms had electrical power in the headboards of the beds and spot coolers were in use in many critical areas where needed.***

***The backup generators, however, did not put out enough power to be able to turn on the air conditioning.***

COURT OF APPEALS OF LOUISIANA  
November 6, 2013

The Court of Appeals of Louisiana upheld the jury's verdict for the hospital.

Conditions in the hospital were not unreasonable under the circumstances. Backup generators provided power to patient bedsides and spot coolers were in use.

Hospitals do have a legal duty in general terms to provide patients with adequate ventilation, but there is no specific standard, the Court said, that emergency backup power must be sufficient to be able to turn on the air conditioning.

It was also inconclusive whether unavoidable post-surgical sepsis, rather than the lack of air conditioning, caused the fatal spike in the patient's temperature. ***Falcone v. Touro Infirmary***, \_\_ So. 3d \_\_, 2013 WL 5946588 (La. App., November 6, 2013).

## Neonatal Intensive Care: Nurse Used Malfunctioning Halogen Lamp.

When the newborn infant arrived in the neonatal intensive care unit the first task for the nurse was to start an IV in the infant's hand.

To see what she was doing the nurse turned on a halogen lamp. She noticed that the handle for positioning the lamp was "askew" and that the lamp was flickering on and off. She started the IV, left the lamp on and a half-hour or forty-five minutes later assisted the physician in prepping for a procedure on the infant's umbilicus.

The physician and nurse saw blisters on the infant's abdomen which they charted as caused by the halogen lamp.

---

***The nurse noticed that the halogen lamp was not working correctly, but nevertheless left it on for more than a half hour before the lamp went off by itself.***

***The physician and the nurse found burns on the infant's abdomen when they prepped him for his umbilicus procedure.***

COURT OF APPEALS OF MICHIGAN  
October 31, 2013

The Court of Appeals of Michigan approved a jury verdict in the family's favor, finding it a case of ordinary negligence by the nurse which did not require an expert witness on NICU nursing standards or medical standards for the procedure the physician was starting.

The nurse testified she kept the lamp in use despite the fact, as she said, that the handle was "askew" which meant the handle was not blocking the full intensity of the hot light radiating from the lamp.

The nurse knew there was something wrong with the lamp and realized or should have realized it posed a potential hazard to the infant patient, but kept using it anyway. ***Pryor v. Harper Hosp.***, 2013 WL 5878676 (Mich. App., October 31, 2013).

## Post-Surgical Care: Patient's Bed Was Defective.

The patient was in intensive care following heart bypass surgery.

The day after her operation the patient's nurses and her family noticed that the head of the bed was gradually drifting downward from the optimal 30° elevation, so the nurses moved the patient to another bed.

Two days after the incident an MRI revealed the patient had significant brain damage. The patient had never regained consciousness after her surgery and passed away nine days after the MRI.

The family sued alleging that the spontaneous lowering of the head of the bed dislodged the patient's endotracheal tube depriving her of oxygen leading to hypoxic brain damage.

---

***The family's nursing experts' opinions did not prove that a breach of the nursing standard of care caused the patient's death.***

COURT OF APPEALS OF TEXAS  
October 31, 2013

The Court of Appeals of Texas dismissed the family's lawsuit.

The Court agreed with the family's nursing experts that it would have been an inexcusable violation of the standard of care for the patient's nurses to have permitted a malfunction of the hospital bed to dislodge a patient's trache tube or disconnect the O<sub>2</sub> supply to the tube, resulting in compromised oxygenation.

However, there was no proof, only speculation, that the trache tube or the O<sub>2</sub> supply tube was in fact affected.

Further, the Court said it was not within a nurse's area of expertise to give an opinion that disruption of external oxygenation was the root medical cause of this patient's hypoxic brain injury. That also would only be speculation and would not support a liability award. ***Snodgrass v. Hillcrest Baptist***, 2013 WL 5915230 (Tex. App., October 31, 2013).