

Old Fracture: Nursing Home Had To Have Been Negligent, Court Rules.

The patient was taken to the hospital after she complained of leg pain and the nurses began to notice swelling.

At the hospital an orthopedic surgeon found a hip fracture he believed had to be at least two to four weeks old. He also said the fracture most likely had to have been caused by a fall of some sort.

The family sued the nursing home claiming that an aide must have dropped their seventy-nine year-old mother during a dependent transfer.

Nursing Documentation Was Not Conclusive

The nursing home convinced the local district court judge to dismiss the family's lawsuit on the basis that there was nothing in the nursing documentation about the patient being mishandled or falling.

The Court of Appeal of Louisiana, however, overruled the district court's decision. In fact, there were two possible bases for the family's lawsuit.

One, the patient was negligently mishandled in a dependent transfer.

Failure to Assess Patient

Failure to Provide Treatment

Or, two, regardless of how the patient was injured, the visible deformity of the lower extremity the orthopedist found at the hospital should have been noticed by the nursing staff during routine patient assessment and should not have been neglected several weeks while the patient received no medical attention.

The family claimed after the fact the patient had told them she was dropped by an aide moving her to her wheelchair, then threatened with retaliation if she reported him. Sorting out if that was really true, in light of the orthopedist's medical testimony, was really a non-issue as to whether the family's lawsuit could go forward.

Schilling v. Grace Health and Rehab, 2007 WL 3227613 (La. App., November 2, 2007).