

## Operating Room: Court Sees Grounds For Patient's Lawsuit Over Burn Injury.

The patient came into the hospital for arthroscopic surgery on her shoulder.

Positioning for the surgery involved strapping her arm to a metal bar that was attached to the limb immobilizer. As they were setting up, the circulating nurse noticed that the bar had not been sterilized. She put it into a metal basket and put the basket into the autoclave at 270° F. When it was done she brought it to the operating room still in the basket and set it near the table.

The scrub tech knew the bar was still very hot. He used a towel to pick it up and later testified that he would have burned his hand if he had not used the towel to pick it up.

He also testified that the normal procedure with any object just out of the autoclave and too hot to handle would have been for someone to pour room-temperature saline into a bowl and to place the object in the liquid in the bowl to cool before being used in a procedure and that he could insist that someone bring in a bowl for the saline if none was in the room.

He further testified it was his duty as a member of the team to alert others if an object was too hot to be used with the patient.

The person who actually used the bar to position the patient was a physician's assistant who worked for the surgeon. It was not clear from the record whether the scrub tech or the circulating nurse alerted him that the bar was just out of the autoclave and was too hot to go ahead.

The patient had third-degree burns to the skin on the back of her arm when she awoke.

### Court Finds Grounds for Patient's Lawsuit

The judge who initially heard the case dismissed the lawsuit based on affidavits from all the personnel in the room indicating that their actions fully met the standard of care.

However, the Supreme Court of Alabama ruled that the facts alone were ample evidence that at least one hospital employee violated the standard of care by failing to ensure that a hot medical device had cooled sufficiently before it was used in contact with the patient's skin.

The Court said the patient did not need an expert witness. It was irrelevant to the legal outcome that the surgeon and the hospital employees were experts while the patient was not and her attorney had not hired an expert witness.

**McGathey v. Brookwood**, \_\_ So. 3d \_\_, 2013 WL 3958299 (Ala., August 2, 2013).

## Spine Precautions: Court Sees No Room For Nurses' Discretion As To Physician's Orders.

The patient was placed in the hospital's neuro critical care unit with physician's orders for bed rest under spinal precautions following a motor-vehicle rollover accident in which she sustained numerous spinal fractures.

Spinal precautions at this hospital included use of a careful log-rolling technique by the nurses when moving the patient in bed, to preserve the delicate alignment of the injured spine, and posting of a spine-precautions sign at the head of the bed to alert all caregivers that spinal precautions are in place.

Instead, according to the patient's lawsuit, she was moved "aggressively" by the nurses who cared for her and that rather than the motor-vehicle accident itself rendered her paraplegic.

The jury ruled in favor of the hospital, finding no nursing negligence.

***The physician put the patient in the neuro intensive care unit and ordered bed rest with spinal precautions, pending further evaluation for a spine brace or spinal surgery.***

***When spinal precautions have been ordered for a critical-care patient the nurses must adhere to the hospital's standing protocol for what spinal precautions entail, with no room for interpretation or discretion.***

SUPREME COURT OF UTAH  
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The Supreme Court of Utah threw out the jury's verdict, ruling the jury was improperly influenced by an instruction given to the jury by the judge that they could consider non-use of spinal precautions as an "alternative method of treatment." The jury apparently accepted testimony at trial that it was up to the discretion of the admitting nurse to determine what a physician's order for spinal precautions meant.

The Court's ruling means in effect that when spinal precautions have been ordered by the physician the nurses must absolutely follow the hospital's standing protocol for what spinal precautions mean, with no room for discretion or nursing judgment. Log-rolling technique should have been used and a sign should have been posted. **Turner v. Univ. of Utah**, \_\_ P. 3d \_\_, 2013 WL 4399039 (Utah, August 16, 2013).