

## Patient Falls, Bleeds To Death: Court Finds Nursing Negligence.

The seventy-one year-old patient was admitted to the hospital for treatment of thrombotic thrombocytopenic purpura.

His physicians implanted a Quinton catheter in his right internal jugular vein.

The patient's nurses assessed him as a high risk for falling due to his age, his poor physical condition and his medications.

The hospital's nursing protocols called for a bed alarm for any high-fall-risk patient. This patient had a bed alarm but it was not turned on on the night in question.

The patient was given a sedative at bedtime to help him sleep. Then at 1:20 a.m. he was given a laxative because he had been having constipation.

The US Court of Appeals for the Fifth Circuit (Texas) wondered why a nurse would wake a patient during the middle of the night to give him a laxative which can act quickly and cause cramping. Apparently the laxative was supposed to have been given earlier but was not given due to an oversight by the patient's nurses.

The nursing progress note when the laxative was given stated that the patient was to be closely watched.

However, no one checked on the patient until 4:40 a.m. when he was found on the floor in the bathroom in a pool of blood with his pajama bottoms down.

The Quinton catheter had been removed and was on the table at the foot of the patient's hospital bed.

The patient was pronounced dead at 4:45 a.m., having bled out through the opening in his jugular from which he had removed the catheter.

### **Nursing Negligence**

#### **No Bed Alarm / Patient Not Monitored**

The Court found nursing negligence in the simple fact that the bed alarm was not activated. This patient was one who the nurses should have anticipated might try to get up out of bed on his own and have considerable trouble if he did so.

If a nurse had come to the room when the alarm sounded when the patient first got up, pressure on the neck could have stopped the bleeding and the patient could have survived. The nurses also should have been checking on the patient frequently. **Smith v. Christos**, 2012 WL 5489397 (5th Cir., November 13, 2012).

***In light of the patient's condition, a bed alarm and frequent monitoring by the nurses were absolute necessities.***

***The patient had a Quinton catheter in his neck for medical treatment of his TTP. It was on the table in his room after the patient was found during the night in a pool of blood on the bathroom floor with his pajama bottoms down.***

***If the bed alarm had been turned on a nurse could have responded in time to have prevented him from bleeding to death.***

***The patient was elderly and debilitated and had a high risk for falling.***

***He had a low platelet count which made him a high risk for bleeding.***

***Due to his age and the sedative medication he had been given he was the type of patient who could wake up and become confused during the night.***

***He had also been given a laxative in addition to the sleep aid .***

***That meant the nurses should have expected he might have to get out of bed during the night, and have to get up in a hurry, which would tend to increase his chances of falling.***

UNITED STATES COURT OF APPEALS  
FIFTH CIRCUIT  
November 13, 2012

## Wrongful Life: Court Allows Suit To Go Forward.

The husband and wife both come from Ashkenazi Jewish heritage, people who are at special risk for certain genetic disorders in their children.

Because of the special risk, the wife was given blood tests which determined that she is a carrier of the genetic factor that causes familial dysautonomia, one of the many genetic risks facing children of persons from her particular ethnic group.

The wife was nevertheless twice informed that her blood tests were normal on later prenatal visits to the clinic.

A few months after birth the child was diagnosed with familial dysautonomia. After learning about the positive prenatal test result the couple filed a lawsuit against the clinic, several physicians, a nurse practitioner and the hospital system that is the clinic's corporate parent.

***The parents have the right to sue for wrongful life, that is, for being denied the opportunity to make their own informed decision whether to terminate the pregnancy of a child sure to be born with substantial genetic abnormalities.***

SUPERIOR COURT OF PENNSYLVANIA  
November 14, 2012

The Superior Court of Pennsylvania ruled the parents had the right to go forward with their lawsuit claiming that they would have had an abortion rather than bring a child into the world destined to endure a lifetime of extreme and debilitating suffering and ultimately suffer a premature death.

The Court acknowledged that wrongful birth or wrongful life lawsuits, which are currently allowed in many states, are a controversial subject. The Court went on to rule that a statute passed by the Pennsylvania legislature to disallow such lawsuits is unconstitutional for technical legal reasons. **Sernovitz v. Dershaw**, \_\_ A. 3d \_\_, 2012 WL 5503973 (Pa. Super., November 14, 2012).