

# LEGAL EAGLE EYE NEWSLETTER

## *For the Nursing Profession*

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## Restraints/Failure To Answer Call Bell: Large Verdict For Nursing Negligence.

The eighty-six year-old patient was admitted to the hospital for heart problems. He was experiencing confusion and disorientation.

A nurse observed him trying to get out of his hospital bed without assistance. After his third try he was moved to a room on the telemetry floor near the nurses' station. He was placed in a Posey vest.

On a telemetry unit a technician watches electronic monitors showing each patient's vital signs and cardiac readouts. On this unit the electronic equipment also noted and recorded call bells activated by the patient requesting help from the nursing staff.

During the 11:00 p.m. hour the patient rang four times. At 12:01 a.m. the monitor indicated a ventricular fibrillation so the technician sent a nurse to the room. The nurse found the patient on the floor strangled by his Posey vest. A code was called but he died.

### Physician's Order for Restraints

The court stated it would be a clear violation of the law and a breach of the standard of care for nurses to use a Posey vest without a physician's order.

A representative of the company that manufactures the vests pointed to the warnings on the packages and the labels on the vests themselves.



***The nurses on duty testified that failing to respond to four call bells requesting assistance over a one-hour interval, with the patient in a Posey vest, is below the legal standard of care for nurses.***

***Putting a patient in a Posey vest without a physician's order violates Federal law and is below the legal standard of care for nurses.***

SUPREME COURT OF TEXAS  
April 24, 2003

### Call Bell Not Answered

The court said it is below the legal standard of care for nurses not to respond promptly to a patient's call bell. The nurse's legal duty is especially acute with a confused, disoriented patient who is in a vest restraint because he tries to get out of bed without assistance. A nurse cannot assume a soft cloth restraint will keep such a patient in bed, but must anticipate the patient might try to get up anyway and get caught up in the restraint.

### Order Not Transcribed

A nurse testified in court there was a physician's order for the Posey but she had not transcribed it before the patient died. The physician testified he approved the restraint, although he did not say exactly when he ordered it.

Nevertheless the judge instructed the jury to consider only the nurse's statement in the hospital incident report that there was no order for the Posey, which would be a violation of Federal and state law and a serious breach of the standard of care for nurses.

### \$1,369,000 Verdict Thrown Out

The Supreme Court of Texas threw out the verdict. It was wrong for the jury to consider only the nurse's statement and not her testimony.

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