

Patient Fall Toilet Nurse

The New York Supreme Court, Appellate Division, upheld the judge and jury. They ruled the nurse was not at fault and her employer was not liable for a patient falling off the toilet while momentarily unattended in his bathroom.

There was no indication the patient was fatigued or unsteady. Once seated, it was completely appropriate for the nurse to leave him alone in his bathroom.

He was alert and oriented, knew to press the call button for help, and the same nurse had helped him to the bathroom several times before.

The jury was right. There was no departure from accepted nursing practices.

NEW YORK SUPREME COURT,
APPELLATE DIVISION, 1999.

The patient's attorneys had an expert witness ready to testify the patient had double vision and memory loss and that made it negligent for the nurse to leave him unattended sitting in his bathroom.

The lower court excluded the expert's testimony from the jury. The Appellate Division approved keeping the expert's opinion from the jury, given what it termed was the overwhelming evidence the hospital's nurse correctly assessed this patient and acted within good and accepted standards of nursing practice in leaving him momentarily alone. **Simon v. New York University Medical Center, 700 N.Y.S.2d 31 (N.Y. App., 1999).**