

LEGAL EAGLE EYE NEWSLETTER

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Transfer To Wheelchair: Facility's Rules Not Followed, Court Finds Negligence.

The Court of Appeal of Louisiana threw out the jury's verdict in favor of the hospital and substituted its own judgment awarding \$20,000 in damages to the elderly patient.

The court ruled negligence by the rehab hospital's personnel caused a non-displaced tibial plateau fracture in the obese diabetic patient's one leg remaining after above-the-knee amputation about six weeks earlier.

Non-Slip Footwear Required By Hospital Rules

The rehab hospital had a list of safety rules to be followed during patient transfers.

One rule stated, "Make sure the patient has footwear that will not slip on the floor."

This patient was wearing ordinary cotton socks. Apparently her foot on her one leg slid sideways during the critical point of the transfer maneuver and the bone fractured.

Facility's Safety Rules Are Mandatory

The hospital's medical experts all agreed the transfer was done in an appropriate manner.

However, the court ruled the patient's experts, two occupational therapists, gave testimony that more correctly stated the legal standard of care.



A facility's safety rules are basic guidelines to be followed on every transfer.

The rules are designed to protect the patient as well as anyone assisting.

The patient should have been wearing non-slip footwear and an aide should have stood in front with her foot blocking the patient's foot from slipping.

COURT OF APPEAL OF LOUISIANA
April 7, 2004

Healthcare personnel do not have discretion to depart from their facility's own patient-safety rules. If the rules are not followed, and a patient is injured, failure to follow the rules is strong evidence of negligence.

Patient's Foot To Be Blocked During Transfer

Hospital safety rules for transfers also required a caregiver assisting in the transfer to block the patient's pivot foot with the caregiver's own foot to keep the patient's foot from slipping.

According to the patient's experts, this requirement was also not met.

The court ruled that caregivers likewise have no discretion here. If the facility's patient-safety rules have been ignored, the court does not independently assess the soundness of the caregiver's improvised transfer technique. Negligence is proven. The only issue left is how much to award as damages.

The patient was transferring back to her wheelchair after being weighed on a scale for sedentary patients, only because a company representative wanted to see if the scale worked. The court said she was hurt in a transfer that was basically unnecessary for her own care. Young v. Bernice Community Rehab. Hosp., __ So. 2d __, 2004 736705 (La. App., April 7, 2004).

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