

# LEGAL EAGLE EYE NEWSLETTER

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*For the Nursing Profession*

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## Wound Care: Nurses Ruled Negligent, Delegated Nursing Functions To Aides.

A home health client sued her home health nursing agency because a hip decubitus wound she sustained in the hospital took a year longer to heal than it should have.

Healing apparently was delayed by old gauze embedded in the wound, found there by a surgeon who operated on the wound when it failed to heal and instead worsened.

The judge believed the home health sitters/aides had been changing the outer dressing, but they did not understand the rationale for sterile packing and re-packing of a deep wound and had left the original gauze in the wound the entire time.

The nursing agency tried to defend the lawsuit by claiming its nurses had shown the sitters/aides how to re-pack the wound with sterile gauze and replace the outer bandages and had taught the patient how to do it herself.

The jury sided with the home health nursing agency and found no nursing negligence. The patient, however, insisted her physician had a reason for ordering skilled nursing care and insisted she was entitled to skilled nursing care. The judge agreed with the patient, threw out the jury's verdict and awarded her more than \$100,000 from the nursing agency.



***The physician wanted his patient to receive skilled nursing care. He wrote an order for the home health nurses to re-pack her hip decubitus wound with antiseptic gauze.***

***Instead, the nurses showed home health aides how to re-pack the wound and left them on their own to do wound care without direct supervision.***

***Wound healing was delayed more than a year.***

COURT OF APPEAL OF LOUISIANA, 2000.

The Court of Appeal of Louisiana upheld the judge's decision to disregard the jury and award damages against the nursing agency notwithstanding the jury's verdict.

### **No Option To Change Physician's Orders For Skilled Nursing Care**

A nurse testified as an expert witness for the patient that nurses do not have the option to change the physician's orders on their own.

The court accepted the nurse as an expert on the nursing standard of care. The court ruled if the physician orders specific skilled nursing care it means those specific nursing functions are to be performed by skilled nurses with their own hands or by non-licensed persons with direct supervision by licensed professional nurses.

### **Documentation Was Lacking**

There was no documentation that licensed nurses ever performed the re-packing procedure or witnessed non-licensed persons doing it. The sitters/aides signed off that they had performed wound care, but there was no documentation of what exactly they did. The judge interpreted it to mean they only changed the outer dressing, which would be wholly inappropriate care. ***Singleton v. AAA Home Health, Inc., 772 So. 2d 346 (La. App., 2000).***

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