

LEGAL EAGLE EYE NEWSLETTER

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Skin Care: No Liability Without Medical Opinion Ruling Out Medical Comorbidities.

The ninety year-old resident came to the nursing home with diagnoses of Alzheimer's dementia, heart failure, hypertension, peripheral vascular disease, arthritis and pneumonia.

She was assessed by the nursing staff as significantly impaired cognitively and was found to be incontinent of bowel and bladder.

During her stay in the nursing home she developed pressure sores on her lower back and buttocks that progressed to Stage IV pressure ulcers along with unstageable wounds on her coccyx and sacrum.

In the ensuing lawsuit the family's nursing expert was able to offer an expert opinion that the wound assessment and care provided at the nursing home fell below the accepted standard of care.

However, the family's nursing expert expressly disclaimed being able to provide an expert opinion linking the significant lapses in the patient's skin care to the development and progression of her skin lesions.

The family's lawyers argued to the trial judge that it would be common knowledge that lapses in skin care standards by a patient's nursing caregivers would naturally lead to breakdown of skin integrity.

The trial judge disagreed, and granted summary judgment to the nursing home for failure of proof by the patient's family.



The patient in a healthcare negligence case must provide testimony from an acceptable expert witness as to the relevant standard of care, the defendant healthcare provider's breach of the standard of care and a causal connection between the provider's breach of the standard of care and the harm alleged to have befallen the patient.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
October 23, 2024

The Superior Court of New Jersey, Appellate Division, agreed with dismissal of the family's lawsuit.

Evaluation of the patient's medical issues as comorbidities affecting the ability of nursing caregivers effectively to stem the progression of skin integrity breakdown is a subject for a medical expert.

No such medical expert having been offered in support of the family's case, the case against the nursing home had to be dismissed.

It would not be within the scope of nursing diagnosis to correctly gauge the significance of comorbidities, and certainly not a matter within the everyday common sense of lay persons on a jury.

The Court pointed to the statutory definition of the scope of nursing practice, which sets the limits of nursing diagnosis.

Nursing professional practice involves diagnosing and treating human responses to physical and emotional health problems through care supportive of wellbeing and provision of medical care prescribed by a licensed physician.

Nursing diagnosis includes identification and discrimination between physical and psychosocial signs and symptoms essential to formulation and execution of a nursing care regimen within the scope of nursing practice. **Polimeda v. Nursing Center**, 2024 WL 4553359 (N.J. App., October 23, 2024).

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