

Bed Rails Down, Patient Falls: Nurse Ruled Negligent. Nurse OK As Expert Witness.

The record from the Court of Appeals of Washington contained a very simple set of facts.

Bed Rails Down

The patient's leg had just been amputated. He was sedated. His nurse left him alone unattended with the bed rails down. He fell and was injured.

The patient sued the hospital for negligence. The patient's lawsuit pointed to the hospital's own policies and procedures requiring satisfactory precautions to be taken to restrain disabled patients.

The court saw the hospital's own internal policies and procedures as one basis for a nurse's legal duty correctly to assess a patient's physical and mental condition and not to leave the patient unattended in an unsafe position in bed.

Nurse As Expert Witness Nursing Standard of Care

Any patient's lawsuit alleging negligence by a healthcare professional must be based on expert testimony. Even a lawsuit over something as simple as a patient falling out of bed cannot be left to a jury of lay persons without the benefit of expert testimony. A court will throw out a patient's lawsuit against a healthcare professional if the patient's attorneys are unable to provide satisfactory expert testimony.

A nurse who the court believes has sufficient knowledge, skill, experience, training and education can testify as an expert witness on the quality of nursing care, assuming the expert is able to apply general principles of nursing practice to the specific facts of the case.

In this case the patient's nursing expert testified that, in addition to the hospital's policies and procedures, general principles of nursing practice hold that a recent post-surgery patient in a state of disorientation from his medications should not be left alone unattended to in a hospital bed without all the bed rails up and locked. **Greenberg v. Empire Health Services, Inc., 2006 WL 1075574 (Wash. App., April 25, 2006).**

A lawsuit against a hospital for negligence does not necessarily have to involve medical malpractice committed by a physician.

A hospital's nurses have their own independent legal duties in assessing and caring for their patients.

A hospital is not relieved of its own legal liability for negligence just because the hospital's staff nurses followed the physician's orders.

That is, a hospital's nursing staff cannot necessarily rely on a physician's standing orders for a patient to be up and out of bed and leave the bed rails down.

A patient freshly out of surgery who is taking pain and sedative medications must be evaluated continually by the nursing staff.

The patient's present physical and mental state is all that matters.

The nurses may have to disregard the physician's standing orders and instead follow the hospital's policies and procedures for a restraint in the form of raised bed rails when necessary to insure the patient's safety.

COURT OF APPEALS OF WASHINGTON
April 25, 2006

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Our mission is to reduce nurses' fear of the law and minimize nurses' exposure to litigation. Nurse managers need to spot potential legal problems and prevent them before they happen. Managers and clinical nurses need to be familiar with how the law is applied by the courts to specific patient-care situations, so that they can move forward and act with confidence.

We work toward our goal every month by highlighting the very latest important Federal and state court decisions and new Federal regulations directly affecting nurses in hospitals, long term care facilities and home health agencies. We focus on nursing negligence and nurses' employment and licensing issues.

Our readers are busy professionals in nursing management, nursing education, clinical nursing, legal nurse consulting and law.

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