

## Patient's Fall: Nurse Did Not Raise All Four Bed Rails, Court Sees No Nursing Negligence, Suit Dismissed.

The seventy-seven year-old patient was admitted to the intensive care unit for pneumonia.

She had a history of stroke earlier that same year and had difficulty speaking and moving the right side of her body.

The patient's nurses assessed her as a high fall risk. Following hospital policy, the top rails of the bed were raised on both sides of the bed, but the bottom rails were not raised because there was no order from the physician to that effect.

The patient was agitated most of the time during her hospital stay. On the day she fell out of bed she had been having repeated bouts of fecal incontinence in bed which made her all the more agitated. The nurses cleaned her and repeated the sedative ordered by the physician.

The patient was found on the floor with bruising on her face and shoulder. The nurse who found her filled out an incident report in which she indicated that all four bed rails were immediately raised afterward to prevent a recurrence.

The patient died several days later from medical causes unrelated to her fall.

The patient's estate filed a lawsuit against the hospital for nursing negligence. The jury found no negligence and awarded no damages. The Court of Appeals of Wisconsin upheld the jury's verdict.

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***The patient's nurses are correct that raising all four bed rails would be considered a form of physical restraint which requires a physician's order.***

***Imposition of a restraint not ordered by the physician is a violation of the patient's right to be free from restraints which are not medically necessary.***

***Use of all four bed rails can pose risks to the patient.***

***A patient who wants to get out of bed may try to climb over the rails or be injured while getting caught in the rails.***

***The two rails on each side of the top of the bed were authorized by hospital policy to be raised without an order because the patient was classified as a fall risk.***

***All four bed rails could not be raised unless ordered by the patient's physician.***

COURT OF APPEALS OF WISCONSIN  
February 8, 2011

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### **Nurse Failed to Inform Family They Could Request Bed Rails Raised**

The lawsuit alleged the patient's nurses were negligent for failing to notify the patient's husband and son that they could request all the bed rails to be raised.

If they had been so informed, the husband and son claimed in court, they would have requested all the bed rails raised, the physician would have agreed, the rails would have been raised and the patient would not have ended up on the floor.

The Court ruled that legal theory was not a viable basis for a negligence lawsuit against a hospital.

Although this particular hospital did have a policy which allowed family members to be told they could request that a family member's bed rails be raised, the Court found no evidence of a prevailing standard in the hospital industry or standard of nursing practice calling for family members to be advised that they have that option.

The legal doctrine of informed consent to treatment does not stretch so far as to require physicians or nurses to provide this information, the Court ruled.

### **Nurse's Statement in Incident Report**

The nurse's statement in the incident report that all four rails were raised after the incident was also no legal basis for a negligence lawsuit against the hospital.

As a general rule, taking corrective measures after an incident does not prove it was negligent not to have taken the same measures before the incident. [Estate of Brown v. Physicians Ins. Co., 2011 WL 383792 \(Wis. App., February 8, 2011\).](#)