

Patient Falls While Dressing: Court Finds No Violation Of The Legal Standard Of Care.

A certified nurse's aide in training was with an elderly nursing home resident while she was dressing. She was standing at the sink in her room putting on her pants. The aide had her lift each leg, one at a time. While lifting her leg she fell backward, struck her head on the floor and had a scalp laceration.

By the time the case went to court she had died. The US District Court for the Middle District of Alabama stated it was undisputed she died of natural causes and not from the injuries from the fall.

No Violation of Legal Standard of Care

The court dismissed the case because the family's lawyers were unable to prove any violation of the legal standard of care in the assessments or personal care provided to the resident.

The physician assessed the patient as needing *supervision* while dressing. The physician specifically ruled out the need for *assistance* in dressing, grooming, toileting, etc., and ruled her able to transfer independently. The court found no basis to fault the physician's judgment that the patient was suitable for standard supervision with ADL's rather than specialty assistance care for dementia or infirmity.

Based on the physician's assessment, there was no basis to fault the aide-in-training or to fault the nursing home's administration for assigning a person with her level of training and experience to this particular resident. The court did say that the aide was not competent to assess this patient, only to follow directions set down by others, but that was not an issue.

The court looked at textbooks and materials from JCAHO for a specific statement just how a patient, even a high-fall-risk patient, is to be supervised while the patient puts on her pants. Hindsight is not the legal standard. There is no specific accepted standard protocol, the court said, for how a resident is to be supervised while dressing. **Duke v. Atria, Inc., 2005 WL 1513158 (M.D.Ala., June 27, 2005).**

There is undisputed evidence that the patient's own primary-care physician approved the resident's admission to the standard assisted-living unit. He did not indicate she needed anything more than supervision. He ruled out the closer level of assistance reflected by the "needs assistance of one person" alternative admission order.

The family's nursing expert stated after the fact that the resident was a high fall risk. It is dubious there is support for that conclusion in the medical records prior to her fall.

According to the family's nursing expert it is a gross deviation from the protocol for assistance with dressing to ask an elderly woman, who is a high fall risk and who has balance problems, to stand and step into her pants one leg at a time.

However, the family's nursing expert has cited no reference to any accepted text or materials from the Joint Commission to back up the existence of such a protocol for assistance.

UNITED STATES DISTRICT COURT
ALABAMA
June 27, 2005
