

Patient's Fall: Court Finds Evidence Of Negligent Care.

The patient was a seventy-two year-old military veteran 100% disabled from a depressive neurosis.

His medical diagnoses included dementia, schizophrenia, organic brain syndrome, diabetes and COPD. He was verbally and physically aggressive toward his caregivers.

He was being treated in the VA for a blood clot in his leg following hip-repair surgery. For some time he had required full assistance with his activities of daily living and then became completely immobile in bed after he broke his hip.

One day the nurses noticed a bruise on his arm and notified a physician. The patient told the physician he had fallen in the bathroom and bruised his arm, although he wore adult diapers, was bathed in bed and never actually used the bathroom. An x-ray showed a fracture of the left humerus.

The next day a nurse practitioner noticed his left lower leg was also bruised. An x-ray showed fractures of the left tibia and fibula.

After he saw the patient five days later his attending physician wrote a progress note stating, "He did NOT fall ... this is documented by all the nurses."

Court Finds Sufficient Evidence

The Patient Did Fall

The patient had had a chest x-ray four months earlier, which showed no upper extremity fracture, but the x-ray right after the bruises appeared showed a fracture. Both the arm and leg fractures were consistent with traumatic injury.

The patient's wife testified he told her he was dropped. Even with his mental deficits, the patient's statement was entitled to some weight. The wife also testified she had seen him moved by one person using a lift and at times by two persons not using a lift, just grabbing body parts.

The nursing care flow sheets and other documentation for the relevant time period, right before the bruises were discovered, did not show that the care plan was being followed for two-person transfers with a mechanical lift. There was no nursing care documented on the night shift the night before, which pointed to substandard care. **Houser v. US, 2010 WL 5476695 (D.S.D., December 30, 2010).**

There may be situations where fractures occur in nursing care without negligence by a caregiver, but this is not such a case.

It is true that the patient's age and having taken valproic acid may account for some weakness in his bones.

However, considering the patient's statement that he was dropped, the location of the impaction fractures and the evidence concerning the patient transfer and charting practices around the time the injuries were discovered, it can be said the patient's injuries were not caused by weak bones.

The weight of the evidence, taken as a whole, supports a decision that negligence by one or more of his caregivers caused this patient's injuries.

The care plan called for transfer by two staff people using a mechanical lift. The flow sheets and other records do not substantiate the care plan being followed during the relevant time period, right before the bruises were found.

Although the investigation failed to pinpoint the cause, it is fair to conclude the injuries were the result of an improper transfer or a drop.

UNITED STATES DISTRICT COURT
SOUTH DAKOTA
December 30, 2010