

LEGAL EAGLE EYE NEWSLETTER

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Fall: Nursing Home Ruled Not Liable.

The jury in the District Court, Valencia County, New Mexico ruled that the nursing home was not liable for a fall that occurred as an elderly dementia patient was arising from her wheelchair, a fall in which she sustained a brain hemorrhage from which she died.

Fall Precautions Were Appropriate Restraint Was Not Appropriate

The patient was making progress in her physical therapy. She was almost ready to start ambulating on her own.

She still had an alarm on her wheelchair to alert the nurses if she stood up. The nurses came right away when she stood up this time, but she was already lying on the floor injured.

She also had a foam lap cushion around her waist, which she was able to remove by herself and apparently did remove by herself right before she stood up and fell.

The facility's medical and nursing staff had had to make a tough judgment call. This resident was not a good candidate for a seat belt or another more restrictive restraint. While in the nursing home and the hospital before that, restraints had tended only to heighten her anxiety and her agitation and make her even more likely to try to free herself and move about on her own.

Estate of Martinez v. Laurel Healthcare, 2009 WL 3864871 (Dist. Ct. Valencia Co., New Mexico, February 20, 2009).



Based on his history, signs and symptoms, the infant should have received oral rehydration therapy under the supervision of a nurse before leaving the E.R.

If that was not successful an IV should have been started to rehydrate him.

He was discharged with a note to his mother to give him a soy beverage.

CIRCUIT COURT, PINELLAS COUNTY
FLORIDA
October 22, 2009

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