

Patient Struck By Orthopedic Hardware While In Bed: Hospital Ruled Negligent.

A patient had just been returned to her semi-private hospital room following abdominal surgery.

For reasons not specified in the court record, a hospital technician attempted to remove the orthopedic suspension hardware from above the bed. He did this with the patient still in bed. A piece of the hardware struck the patient in the head.

With the patient still in bed recovering from abdominal surgery, a hospital technician attempted to remove an orthopedic suspension bar from her bed.

A piece of the apparatus fell and struck the patient on the head.

The court ruled the hospital was negligent. The patient's attorney did not have to prove professional negligence had occurred in order to proceed with this lawsuit against the hospital.

COURT OF APPEALS OF TENNESSEE, 1996.

The Court of Appeals of Tennessee ruled the hospital was guilty of "simple" negligence for the technician's actions. Unlike professional negligence or malpractice, simple negligence does not require the victim to present expert witness testimony in court in support of the case.

Fortunately, there was no bruising, bleeding or swelling. A CT scan done immediately after the incident revealed no closed head injury to corroborate the persistent severe headaches the patient would later claim in her lawsuit. **Peete vs. Shelby County Health Care Corp.**, 938 S.W. 2d 693 (Tenn. App., 1996).

Suspicious Patient-Care Events: Quality Assurance Must Investigate And Take Action, Court Says.

The involvement or even the physical presence of the same particular individual in a pattern of suspicious patient-care events can be a particularly telling circumstance.

In this case, the technician who was injecting newborn infants with lidocaine had a history of psychiatric hospitalizations and reports of domestic violence.

It is the mission of a hospital quality assurance program and the legal duty of the quality assurance supervisor to identify and take the steps necessary to prevent recurring problems with patient care.

An incident report should be prepared promptly to document any event which is inconsistent with routine patient-care outcomes.

Incident reports should be routed immediately to the hospital's quality assurance and/or risk management department for investigation, and a further report should be prepared to document what investigation was done, what was learned and what action was taken.

UNITED STATES DISTRICT COURT,
ALABAMA, 1996.

One particular medical technician was on duty in the nursery during each incident. According to routine nursing documentation, he attended on some of the infants right before they developed severe breathing difficulties. That is, it was noted that he had been the one to take the baby from the mother back to the nursery for the night. According to incident reports prepared after the fact, this very same person was often the first to arrive to initiate the process of resuscitation on many of the babies involved.

Once a criminal investigation had been completed, it came to light that the technician had injected one new mother and eleven newborn infants with lidocaine or similar drugs.

The one mother and the families of all eleven infants filed suit. The United States District Court for the Middle District of Alabama reviewed each case in detail. There was an obvious pattern to these adverse patient-care incidents which should have alerted the hospital that the incidents were not random or isolated. Under the circumstances, the court ruled the hospital had a legal responsibility to root out and eliminate the cause prior to much of the damage having been done.

According to the court, the very purpose of quality assurance is to be alert for suspicious patterns in adverse patient-care episodes. A pattern of ongoing intentional criminal misconduct is one which quality assurance must ferret out. A good starting point is to match up the personnel on duty with the incidents, and then to look at what is known about their backgrounds.

A hospital can be liable in a lawsuit for negligence if on-going criminal misconduct continues to harm patients after events have afforded a clear-enough basis for quality assurance to see that something is going on and take action. **Gess vs. U.S.**, 952 F. Supp. 1529 (M.D. Ala., 1996).