LEGAL EAGLE EYE NEWSLETTER

March 2005 *For the Nursing Profession* Volume 13 Number 3

Combative Episode: Jury Finds Negligence, Soft Restraints Not Used To Control Patient.

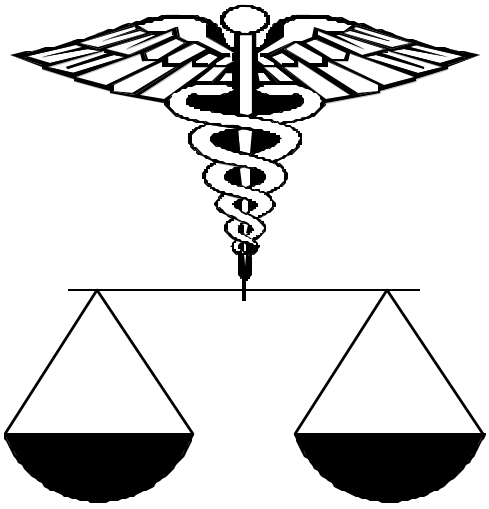
Running through a recent opinion from the Court of Appeals of Louisiana is the theme that an episode of combativeness must be seen by caregivers as a patient's medical emergency rather than as a patient's defiance of caregivers' authority.

The patient's needs must always be the focus for caregivers in controlling a combative patient. The patient's need for personal safety and the patient's need to have the underlying medical condition recognized and treated are of paramount importance.

Caregiving institutions must set up protocols for staff to deal with combativeness with the patient's needs in mind. Staff must always follow the protocols at the risk of being ruled negligent for not doing so.

In this case, trained paramedics had sheriff's deputies handcuff and shackle a patient having a seizure in a restaurant in the community.

The legal standard of care, inside or outside a facility, is the same as the protocols the ambulance company had for its personnel. Soft restraints are to be applied to immobilize the patient's hands and feet. The patient's status must be constantly monitored while restrained for the duration of the combative episode.



The standard of care with combative patients is to be mindful that the patient has a medical condition which accounts for the combativeness.

In the interests of safety, only soft restraints are appropriate, such as the methods hospitals and nursing homes commonly use to keep patients from crawling out of bed or dislodging their IV tubes.

COURT OF APPEAL OF LOUISIANA
January 12, 2005

The court noted that there are a variety of options for ensuring patient safety during a combative episode. Bandages, ace bandages, blankets, sheets, towels, and gauze or leather straps can be used as appropriate alternatives to the methods and devices commonly used to keep nursing home patients secure in their beds.

During a combative episode it is mandatory to protect the head and airway while the patient is manually and physically restrained.

There must be an attempt to find the medical cause of the patient's behavior and/or to determine the patient's medical history if not already known to the patient's caregivers.

In this case the patient had a long history of seizure disorder, information that could have been obtained from his family member who was with him. Then the focus would have been to assay blood levels of his medications and to institute appropriate therapy.

The court, after upholding the jury's verdict of negligence, conceded the patient was partially at fault for not taking his Dilantin. The court reduced the $800,000+ verdict to $50,000 plus medical expenses. **Rathey v. Priority EMS, Inc., __ So. 2d __, 2005 WL 174566 (La. App., January 12, 2005).**

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Dilantin Toxicity: Court Holds Nurses, Pharmacists Liable For Medication Error.

A seventy-three year-old gentleman fell at home and struck his head. He also sustained multiple spinal compression fractures. He was taken to the hospital.

On a hospital acute care unit he was prescribed Dilantin for seizure activity his physicians associated with the new head injury, along with numerous other medications.

The facility treated his transfer to rehab as a discharge and readmission. New physician's admitting orders were written and sent to the pharmacy to be transcribed into a medication administration record (MAR) for the rehab nurses.

His Dilantin was to be the same in rehab as in acute care, 300 mg po qhs. However, for the new MAR in rehab the pharmacy erroneously transcribed it as 3x100 mg caps t.i.d., basically three times the level actually ordered.

No Reason For Nurses To Question Order

The case was especially difficult because after a nurse had compared the MAR prepared by the pharmacist with the actual orders, the court said there was no reason for other nurses to question the physician's apparent decision to give this particular dose of this particular drug, as large loading doses Dilantin can be given early in treatment of new seizure activity.

The error was actually caught by a community pharmacist asked to fill his prescription after the man had been discharged with the same 900 mg/day Dilantin dosage, as that would be an unusually large dose outside of the hospital.

No Reason For Nurse To Seek Lab Tests

The court also said it is not a nursing responsibility to judge when it is necessary to obtain blood tests to assay a patient's Dilantin level, assuming, as in this case, that there were no signs of Dilantin toxicity seen in the hospital and the patient was under the effects of some twelve other medications. **Ferguson v. Baptist Health System, Inc., __ So. 2d __, 2005 WL 327354 (Ala., February 11, 2005).**

The hospital had an internal policy, designed as a safeguard against possible errors by the pharmacy in transcribing physicians' orders into the nurses' medication administration record (MAR), that any time a new order from a physician was entered, the first nurse to carry out the new orders was responsible for comparing the order itself with the entry on the MAR.

After that, the nurses who continued administering medications according to the MAR were not responsible for cross-checking the MAR against the physician's order.

The order versus MAR reconciliation process only took place once and only for new orders entered by the physician within the previous 24 hours.

It is not clear how or why the order was erroneously transcribed by the pharmacist or how or why the nurses missed the error in the MAR reconciliation process.

However, this is only a negligent error or omission. There is no basis to award punitive damages.

SUPREME COURT OF ALABAMA
February 11, 2005

Premature Infant: Court Questions Early Discharge, Discharge Instructions.

Twin babies were born 12 weeks premature to a forty-eight year-old first time mother who spoke little English.

Aside from normal problems associated with prematurity, one of the babies was fine. The second required surgery and a longer stay in the hospital. He was discharged home with an O_2 tank and a pulse oximeter.

At home when the mother tried to bottle-feed the second infant he vomited, but then seemed all right. Then she fed him again four hours later. He vomited again and his mouth and nose were clogged. The mother tried to clear his airway with a bulb syringe, but he became limp and could not be revived by paramedics.

The court should not have disallowed the parents' expert witness's testimony

CALIFORNIA COURT OF APPEAL
UNPUBLISHED OPINION
January 18, 2005

The California Court of Appeal ruled the judge should have allowed the jury to hear the parents' expert witness's theory of the case, that the child was discharged early and/or that the discharge instructions were inadequate.

The mother, unlike a trained neonatal nurse, did not realize it was inappropriate to go ahead with a subsequent feeding of an infant as sickly as this one without medical evaluation for the cause of the vomiting and medical approval to resume bottle feeding. If the infant were still in the hospital, or if the mother had been properly instructed, there was evidence the death would not have occurred. **Lee v. Hosp. of the Good Samaritan, 2005 WL 91256 (Cal. App., January 18, 2005).**

Psych Patient Threatens To Harm Family Member: Court Points To Duty To Take Action.

A psychiatric patient brutally attacked and attempted to kill his father with a hammer.

Afterward the father filed a civil lawsuit against the corporation which had the contract with the county to provide psychiatric care and community support to mentally ill adults in the county. The patient had had a long history of inpatient and outpatient involvement with the corporation's pilot program for the county and was currently enrolled in the program's unsupervised residential care center.

The California Court of Appeal pointed to several glaring lapses in his care which led up to his attack on his father. The court ruled the father had the right to sue the corporation for negligence for failure to warn the father of the possibility of an attack, for failure to notify law enforcement and for failure to take steps to have the patient confined as a danger to others.

Lack of Medication Supervision

The court first found fault with the corporation's program over a lack of supervision in patients' medication compliance. They allowed this patient to stop taking his medications for bipolar and schizo-affective disorders and precipitated the decomposition which led to the attack on his father.

When a psychiatric patient reveals an intent to harm a specified individual, the patient's caregivers must try to warn the individual, must alert law enforcement and must start the process to have the patient confined or to keep the patient confined as a threat to others.

This legal duty is not limited to licensed psychotherapists or to caregivers who conduct therapy sessions with patients.

The corporate defendant in this case had a contract to provide psychiatrists, psychologists, nurses and personal caregivers in residential and assisted living settings.

CALIFORNIA COURT OF APPEAL
UNPUBLISHED OPINION
January 28, 2005

Failure to Warn of Attack

The patient made numerous statements to the effect he intended to kill his father as his condition was deteriorating into a seriously delusional psychotic state.

The court pointed out that the corporation had physicians, psychologists and nurses on its staff who were specialists in treating seriously mentally ill patients.

Because it was not legally relevant, the court made to effort to identify exactly which corporate employees were guilty of errors and omissions. The duties to warn an identifiable victim of a threatened attack by a psych patient and to notify law enforcement are legal duties of all professional mental-health workers, not just licensed psychotherapists.

Duty to Hospitalize Patient

The patient did actually go to another hospital seeking voluntary admission. They phoned the program's staff suggesting they admit him, as he was offering to be admitted voluntarily, but nothing was done. Family members requested program staff to start him back on his meds and/or to hospitalize him as a danger to others, but their requests were also ignored. **Clay v. Telecare Corp., 2005 WL 237352 (Cal. App., January 28, 2005).**

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Non-Competition Agreement: Nurses Went To Work For Another Home-Health Agency.

As a general rule, a nurse who signs a non-competition agreement with a particular employer must abide by the agreement with respect to work activities after employment with that employer.

An employee who has signed a valid non-competition agreement cannot solicit the former employer's clients and cannot use confidential information or trade secrets belonging to the former employer in professional activities later on.

Non-Competition Agreement Not Binding In This Case

The Superior Court of Connecticut noted that the home health nurses in this case contacted clients with whom they had been working with their former employer and got the clients to switch over to the new agency for whom the nurses had gone to work. Ordinarily that would be a clear violation of a non-competition agreement which could subject the nurses to a court injunction and a lawsuit for damages for breach of contract.

However, the non-competition agreement in this case was not binding. It was contained in the previous employer's employee handbook, which, for the employer's protection, had been denominated as not creating a binding employment contract between employer and employee.

Confidential Information

Patient's charts in the possession of the former employer are confidential information and may not be removed when an employee leaves.

However, the court pointed out that the same information in the charts is also in the hands of the patients, their physicians and other caregivers such as nursing homes, therapists and social workers.

Patient files from these other sources may be used in patient care after the patient has switched to another home-health agency without violating any right of a former agency to claim that its patient files are proprietary. **Priority Care, Inc. v. Gentiva Health Services, Inc., 2005 WL 246711 (Conn. Super., January 7, 2005).**

When nurses leave one home health agency and go to work for another, a non-competition agreement, if there is one, will not allow:

Removing confidential patient files;

Using confidential information belonging to a former employer to further the business interests of another employer;

Soliciting clients of the former employer to switch over to the new employer;

Soliciting employees of the former employer to leave and come to work for another employer.

A non-competition agreement can only apply to the prior employer's immediate geographic area and can last only a short time, i.e., one or two years.

In this case the catch is that the non-competition agreement was part of the former employer's employee handbook.

To protect the former employer from a former employee's post-termination breach-of-contract suit there was the usual disclaimer that the employee handbook is not a binding employment contract.

SUPERIOR COURT OF CONNECTICUT
January 7, 2005

Non-Competition Agreement: Old Employer Entitled To Nominal Damages.

Two LPN's signed contracts as outside independent contractors with a home-health agency to provide in-home services to the agency's clients.

Their contracts contained non-competition clauses which prohibited them from entering into a business relationship with any client of the agency for two years after the termination of their independent-contractor relationship.

The independent-contractor relationship itself was at-will, that is, it could be terminated by either side at any time for any reason.

The nurses quit, signed on as independent contractors with another agency, took their clients with them and continued caring for them.

The nurses did solicit business from home-health clients whom they had cared for while employed by their former employer.

That is a violation of the two-year non-competition agreement.

COURT OF APPEALS OF MICHIGAN
February 1, 2005

The Court of Appeals of Michigan ruled the nurses did commit breach of contract. However, the home-health clients' relationship with their prior agency was also at-will. The clients had no obligation to remain with the first agency. It was only speculative how long that relationship would have lasted even if the nurses had not solicited them to switch, drastically reducing the nurses' liability for damages. **Health Call of Detroit v. Atrium Home & Health Care Services, Inc., __ N.W. 2d __, 2005 WL 240772 (Mich. App., February 1, 2005).**

Will Contest: Court Looks To Nurse To Testify On Mental Capacity.

While a resident in a nursing home, an elderly lady revoked her will signed nineteen years earlier and signed a new will leaving most of her property to her grandson.

When she passed away her other grandchildren filed court papers objecting to the new will and asked the court to reinstate the earlier will.

The grandson had been helping her manage her affairs and was acting as her *de facto* legal guardian. The court believed a confidential relationship existed between her and the grandson. That created strong suspicion the grandson could have exerted undue influence upon her getting her to revoke one will and sign a new one which substantially favored him.

The nurse who was on duty at the nursing home on the afternoon she signed her will testified, based on the nursing notes, that the resident's pain level was only "1" and she was alert and oriented during the visit.

COURT OF APPEALS OF MISSISSIPPI
January 25, 2005

The Court of Appeals of Mississippi pointed to the testimony of the nurse on duty at the nursing home when the grandson, the lawyers and the notary visited. The nurse had nothing to gain or lose.

The nurse's notes showed the lady was alert and oriented that afternoon. The court reasoned she understood what she was doing, was not under duress and fully intended for her grandson to get her property. **Sims v. Sims, __ So. 2d __, 2005 WL 147716 (Miss. App., January 25, 2005).**

Lifting Restriction: Court Says Nurse Not Disabled As Defined By The ADA.

The first element that any plaintiff must establish to succeed on a disability discrimination claim is that the individual in fact lives with a "disability" as that term is defined by the Americans With Disabilities Act (ADA).

That is, there must be a physical or mental impairment that substantially limits one or more of the major life activities.

This element is of threshold importance; if a plaintiff cannot establish this element, the disability discrimination claim is without merit and must be dismissed by the court.

Lifting has been seen as a major life activity. However, the weight of legal authority is that a general lifting restriction is not a disability.

Weight lifting limitations do not tend to restrict a person's ability to perform a broad class of jobs in various classes as compared to the average person with comparable skill.

Rather, weight lifting restrictions tend only to prevent people from performing a narrow class of jobs

UNITED STATES COURT OF APPEALS
EIGHTH CIRCUIT
January 26, 2005

The US Circuit Court of Appeals for the Eighth Circuit, in an opinion that will not be published in the Federal Reporter, ruled that a staff nurse with lifting restriction imposed by her physician due to degenerative disc disease in her neck is not a disabled individual as contemplated by the Americans With Disabilities Act (ADA) and has no right to sue her former employer for disability discrimination.

Temporary Accommodation

The hospital temporarily accommodated the nurse's lifting restriction by assigning her to a shift coordinator position. However, when her doctor imposed further restrictions against activities that required bending and twisting, she was placed on unpaid medical leave. Her rights were not violated, the court said.

Arbitration Order to Return to Work

An arbitrator upheld the nurse's grievance to the extent she was ordered returned to work if she could perform the essential functions of her staff nursing job.

The arbitrator's ruling meant the hospital had to bring in outside professionals to create a formal functional job description for a registered nurse and to evaluate the details of the restrictions imposed by the nurse's physician.

After careful analysis it was found the nurse could not meet the essential physical demands of her job and could be terminated without violating the arbitrator's order.

Nurse Not Disabled

The court took the tack that by law a person with lifting restrictions is not considered a disabled person within the meaning of the ADA.

That means to avoid violating the ADA it is not necessary for the employer to determine whether or not the person is a qualified individual with a disability, as the person does not have a disability and does not come under the ADA. **Lundquist v. Rice Memorial Hosp., 2005 WL 156640 (8th Cir., January 26, 2005).**

Post-Surgical Immobilization: Court Looks At Differing Nursing, Medical Responsibilities.

The patient had tracheal resection surgery in which a congenitally narrowed portion of the trachea was removed and the portions above and below were reattached with sutures.

For a few days post surgery it was essential to immobilize her neck so that hyperextension of the neck could not rupture the sutures. Her physicians constructed a device for this purpose with bandages, tape and a headboard.

The patient's trachea healed. However, she was left with scarring where the bandages had touched on her forehead. She sued the hospital over the residual scarring.

The lawsuit alleged:

1. She did not give informed consent for the use of the head restraint, i.e., she was not told it could cause scarring;

The patient's nursing expert is qualified to render an expert opinion that the hospital's nurses' errors and omissions fell below the standard of care.

The nursing expert is not qualified to render an opinion regarding the standard of care for the patient's medical treatment, but the hospital's nurses were not responsible for the patient's medical treatment.

SUPREME COURT OF MINNESOTA
January 20, 2005

2. The restraint was not properly constructed;

3. The nurses did not properly monitor her in the restraint;

4. The nurses did not seek follow-up medical specialty care when the restraint was removed and it was apparent that a wound had been caused by the restraint.

The Supreme Court of Minnesota ruled that all but the duty to monitor the patient in the restraint were medical rather than nursing responsibilities.

When a patient is immobilized following surgery nurses must inspect the patient's skin integrity where the restraint device impacts the skin as if it were a wound dressing. Inspection must occur at least once during every eight-hour nursing shift, the court said. **Broehm v. Mayo Clinic Rochester, 690 N.W. 2d 721 (Minn., January 20, 2005).**

Premature Infant: Lawsuit Asks Court To Adopt Legal Rule Of Loss Of Chance Of Survival.

The mother came to the hospital and informed the emergency room staff she was having abdominal cramping and blood in her urine and believed she was in labor. She stated she was twenty-two weeks pregnant.

The hospital staff refused her and her husband's requests for medication to stop or slow labor and refused to bring in a neonatal intensive care team. Instead, she was placed in a hospital bed to deliver the fetus. Although breathing, the fetus was placed in a metal basin and allowed to expire.

The rationale given was that the fetus had only a marginal chance of survival, even with the most intensive level of medical intervention. In court the parents' own medical expert gave the fetus only a 25% to 30% chance of survival.

The so-called loss of chance of survival rule ignores the prevailing requirement that cause-and-effect be proven in professional negligence cases to a reasonable degree of medical certainty.

The court will decline to adopt the loss of chance of survival rule in this state in a case where the deceased had less than a 51% chance of survival.

COURT OF APPEALS OF TENNESSEE
January 21, 2005

The parents' lawyers urged the court to adopt the loss of chance of survival rule that is recognized in many states. The Court of Appeals of Tennessee declined. Unless the deceased had at least a 51% chance of survival the courts in that state will continue not to consider a medical negligence lawsuit valid.

If this case had been filed in a state which has adopted the loss of chance of survival rule, the total amount of damages computed by the jury for the loss of a child's life would be multiplied by the fetus's 25% to 30% chance of survival, possibly resulting in a substantial monetary award to the parents.

A great disparity exists among US state jurisdictions on this legal point. **Harris v. Baptist Memorial Health Care Corp., 2005 WL 123455 (Tenn. App., January 21, 2005).**

Cardiac Cath: No Post-Op Nursing Negligence.

After her third cardiac catheterization procedure the patient developed an occlusion of the femoral artery at or near the site of the puncture wound.

She required a bypass graft procedure to restore blood flow to her lower extremity. After that procedure she sued the hospital for medical and nursing negligence.

The Court of Appeals of Kentucky agreed it is a correct statement of the nursing standard of care following cardiac catheterization for the nurses closely to monitor and chart the presence or absence of pulses in the lower extremity on the operative side. However, there was no evidence in this case that the nurses did not do that. The case was dismissed. **Slone v. Central Baptist Hosp., 2005 WL 268031 (Ky. App., February 4, 2005).**

Distending Fluid: Fluid Uptake Is Physician's Responsibility.

In a professional disciplinary proceeding filed against a physician by the state Department of Health, the New York Supreme Court, Appellate Division, ruled that it is the physician's responsibility, and not the circulating nurse's responsibility, to monitor absorption of distending fluid by the patient and to discontinue the procedure in the interest of patient safety when excess fluid has been absorbed.

The court said specifically that more than one liter difference between glycine distending fluid going in and coming out during a gynecological hysteroscopic procedure is over the limit. The physician must be vigilant and act accordingly. **Braick v. Dept. of Health, 786 N.Y.S.2d 599 (N.Y. App., December 9, 2004).**

High Fall Risk: Patient Left Alone On Commode, Court Finds Nursing Negligence.

The nurse on duty at 3:15 a.m. who answered the resident's call light and assisted her to the bathroom testified she did not know the resident had been assessed as a high fall risk.

The nurse testified if she had known the resident was a high fall risk it would have been wrong to leave her unattended on the commode, and she would not have done so.

The resident was classified as a high fall risk on admission to the facility, due to multiple medical problems including congestive heart failure and renal failure.

Despite her high-risk classification and a fall-prevention care plan, she did fall three days into her stay at the facility.

The nurse should have known that special precautions were necessary, that is, remaining with the patient to assist her back to her bed.

The nurse should have known it was not appropriate to leave the patient with instructions to ring her call bell when she was ready.

DISTRICT COURT OF APPEAL
OF FLORIDA
January 19, 2005

A nurse left a nursing home resident on the commode in her bathroom with instructions to press her call light for assistance when she was ready to return to bed.

Instead of ringing for assistance the resident tried to go it alone, fell, sustained a closed-head injury and died.

The jury gave $220,000 verdicts to each of the resident's nine adult children and found the patient herself 5% comparatively negligent and to that small extent responsible for her own injuries.

However, the judge then threw out the verdicts because adult children under Florida law are not entitled to compensation for the deceased's pain and suffering. Although the judge agreed there was nursing negligence, the judge limited the verdict to $9,000 for post-injury medical, funeral and burial expenses.

The judge also ruled there was no reckless, outrageous or malicious conduct by the nurse to justify punitive damages, which would have benefited the adult children. The Court of Appeal of Florida agreed in all respects.

High Fall Risk
Precautions / Care Plan

This resident was a high fall risk, due to the medical problems with which she was admitted and due to the fact she fell in the nursing home three days into her stay.

The facility's standard care plan for a high-fall-risk patient called for caregivers to stand by while the patient was on the commode, to offer assistance as needed while on the commode and to be present to assist the patient immediately when the patient was ready to return to bed.

A caregiver is required to know and follow the care plan. Even without a care plan a caregiver should know a patient like this is a high fall risk and should not to leave the patient alone and vulnerable on the bathroom commode, the court said. **Estate of Williams v. Tandem Health Care of Florida, Inc., __ So. 2d __, 2005 WL 94505 (Fla. App., January 19, 2005).**

LEGAL EAGLE EYE NEWSLETTER
For the Nursing Profession

Misconduct: Aide Stole Patient's Funds.

The New York Supreme Court, Appellate Division, ruled that a nursing assistant was not entitled to unemployment benefits following her termination from a nursing home.

That is, the assistant was fired for employee misconduct which justified her former employer in terminating her.

It was discovered the nursing assistant had withdrawn $70 from a resident's bank account, supposedly to purchase items the resident had requested she purchase for her.

The assistant was given twenty-four hours to produce the purchase receipts. With full knowledge she would lose her job if she failed the assistant did not produce any proof whatsoever the funds went to a legitimate purpose.

Neither her employer or the state department of labor referee were required to consider her excuse, that the receipts were in her vehicle which she had loaned to another individual. Her termination was upheld. **Claim of Keeler, __ N.Y.S.2d __, 2004 WL 3154911 (February 3, 2005).**

No Misconduct: Aide Questioned Nurse's Decision.

A certified nursing assistant was fired from her job in a hospice after she questioned a nurse's decision not to administer medication (Xanax) to an anxious patient who was asking for her medication.

One week later, on returning from vacation, the director of nursing heard there was a rumor circulating that the aide had seen the nurse allow her patient to die in agony without her medication. The aide was promptly fired as the person responsible for starting the rumor.

The District Court of Appeal of Florida overruled the unemployment department's denial of benefits to the aide. That is, the court found the aide was not guilty of misconduct that would justify termination. According to the court, a caregiver has an ethical duty and a legal right to speak up about patient care the caregiver legitimately believes is substandard. The court said the aide's concern was commendable. **Smith v. Unemployment Appeals Comm'n, __ So. 2d __, 2005 WL 229870 (Fla. App., February 2, 2005).**

Workers Comp: Court Allows Payment For Nursing Services Provided By Family Member.

After her husband sustained a catastrophic spinal-cord injury on the job that left him basically a quadriplegic, the wife, a certified nursing assistant, applied for hourly compensation from her husband's workers compensation insurer for the services she was providing in the home.

The Court of Appeals of Iowa took note that she was an experienced certified nursing assistant. The services she provided included helping him transfer from bed to chair, dressing him, putting on his anti-embolism hose, assisting him with his utensil strap, assisting him with feeding and checking him for choking, assisting with dental care, dressing his catheter, tending to a bowel regimen, turning and repositioning him, bathing him, etc.

The workers compensation law provides for payment of necessary in-home nursing services for an injured worker.

The worker's wife is a certified nursing assistant.

The services she performs in the home go beyond ordinary housekeeping tasks.

She should be compensated at the reasonable and customary rate for these professional services.

COURT OF APPEALS OF IOWA
January 26, 2005

The court ruled these are professional services which come under the definition of nursing services due to injured workers under the state workers compensation law. In the local area the fair value of in-home CNA services is $18.00 per hour, the court ruled.

It is not relevant whether professional services come from a family member or an outside home-health agency as long the services are prescribed by a physician, the caregiver is trained and certified and the services are competently performed.

The court differentiated household tasks like cooking and laundry which are not paid by workers comp whether provided by a family member or an outside party. **BTDR Dunlop v. Cline, 2005 WL 157749 (Iowa App., January 26, 2005).**