

## Neuro Procedure, Post-Op Fall: Multiple Instances Of Nursing Negligence.

After a shunting procedure to drain fluid from her brain the elderly patient was admitted to a medical surgical unit. While a patient there she was found on the floor of her room with a broken hip and a broken arm. Apparently she got up and tried to walk and fell. She needed surgery for the broken hip and had to go to a nursing home rather than going home with her family.

After she died her family filed suit and obtained a verdict of \$181,612.51 against the hospital, which the Court of Appeals of Michigan affirmed in a recent unpublished opinion. The case raised multiple instances of nursing negligence by the hospital's staff nurses.

### **Nursing Student Not To Work Independently**

A nursing student was given independent responsibility for the patient's care, contrary to the hospital's standard practices. According to the court, nursing students are to work under close direct supervision from a licensed registered nurse. It is a breach of the legal standard of care for a nursing student to have independent unsupervised responsibility for a patient.

### **Patient Not Restrained**

The court pointed to the patient's chart records before the surgery showing that she had been in a Posey vest before the surgery to keep her from trying to arise from bed on her own.

The court questioned why the nursing staff did not use the Posey after her surgery, when her cognitive status presumably would be worse than before the surgery.

The lack of restraints after surgery led the court to question whether the patient was ever actually assessed by the nursing staff. Her neuro status was to be assessed every two hours. Patient safety should always be an ongoing nursing issue whether or not repeat assessments have been ordered. **Humpert v. Bay Medical Center**, 2003 WL 22442923 (Mich. App., October 28, 2003).

***The family members testified the deceased had suffered from sundowner's syndrome, meaning the patient would become confused and disoriented to her surroundings at the end of the day.***

***The neurosurgeon was also concerned about the potential for patient confusion as a complication of the neuro shunting procedure just performed.***

***The nursing staff must perform an assessment of the patient's need for various safety precautions. In this case a nursing neuro assessment was to occur q 2 hours.***

***The neurosurgeon ordered restraints at the discretion of the nursing staff, but the patient was not restrained.***

***A bed sensor alarm was ordered to detect when the patient left the bed but there was no record and apparently no one actually turned it on.***

***The patient should have been placed in a room near the nurses' station for close observation, but instead was placed in a room down the hall.***

COURT OF APPEALS OF MICHIGAN  
UNPUBLISHED OPINION  
October 28, 2003

## Faulty Infection Control: Court Sees Immediate Jeopardy.

The US Circuit Court of Appeals for the Fourth Circuit recently upheld the decision of US Department of Health and Human Services officials to terminate Medicare and Medicaid funding and to impose a \$10,000 per day civil monetary penalty for twenty-three days, based on a state survey of a long-term care facility in South Carolina.

The court did not go into the specifics except to say that a long-term care facility must make an effort to identify the nature and cause of a resident's infection and must keep track of the cause, status, severity and treatments of other residents who develop the same infection, according to Federal regulations governing quality of care in long-term care facilities.

A state of immediate jeopardy is the legal terminology for the most serious deficiency inspectors can find, justifying a \$10,000 per day penalty. **Sea Island Comprehensive Healthcare Corp. v. US Dept. of Health & Human Services**, 2003 WL 22451772 (4th Cir., October 29, 2003).

## Newsletter Now Available Online.

Our newsletter is available online to paying subscribers at no additional charge beyond the subscription price.

All subscribers receive print copies in the mail whether or not they also want the online edition.

If you are interested in the online edition, e mail us at [info@nursinglaw.com](mailto:info@nursinglaw.com). Identify yourself by name and postal address and include your e mail address. About ten days before the print copies go out in the mail the Internet link to the online edition is e mailed to you. You can open the link directly from your e mail and read the newsletter on your computer in Adobe Acrobat PDF file format.