

Nursing Malpractice: Court Allows Lawsuit To Go Forward Against Facility's Director Of Nursing.

The patient was admitted to a long-term care facility at age fifty-five with a diagnosis of multiple sclerosis.

On admission she had no skin impairment but was assessed as high risk for development of pressure sores.

She developed sixteen separate pressure lesions over the next four years, including several Stage IV decubitus ulcers, one Stage III, one Stage II and another lesion categorized as unstageable.

When one of her sacral decubitus ulcers began to bleed the patient was transferred to a hospital.

Hospital personnel documented on admission that her injuries included:

A sacral pressure ulcer so large, deep and infected that liquid stool was seeping out of her vagina;

A scalp pressure ulcer that appeared to reach down to the skull;

A left leg pressure ulcer that exposed the tendons; and

Pressure ulcers on the ears which exposed the cartilage.

In addition to the skin lesions, before transfer to the hospital from the nursing facility the patient had developed a severe urinary tract infection and a respiratory infection that was causing her to expectorate yellowish-green sputum.

The patient died in the hospital shortly after admission.

Family's Lawsuit Faulted Director of Nursing

Among the allegations in the family's wrongful-death lawsuit were a long list of allegations leveled at the facility's director of nursing herself, not in her capacity as a direct patient-care nurse, but in her supervisory capacity as director of nursing.

The allegations included:

Failure to hire qualified and experienced nursing staff to provide appropriate care and treatment to the patient during her stay at the facility;

Failure to ensure that the medical and nursing services provided to the patient met the applicable regulations, policies, procedures and standards for overall quality of care;

Failure to ensure the safety and welfare of the patient;

The Nursing Home Care Act allows a patient, a patient's legal guardian or a deceased patient's personal representative to sue a nursing-home licensee for injuries or death from substandard nursing care.

That does not mean that the corporate licensee which owns and operates the nursing home is the only party that can be held liable in a civil lawsuit.

The director of nursing acts as a healthcare provider in her supervisory capacity as director of nursing and can be held liable for substandard care, policies and practices at the facility. In her supervisory role the director is in essence caring for the patients herself.

APPELLATE COURT OF ILLINOIS
March 17, 2010

Failure to evaluate, monitor and supervise the overall quality of healthcare being provided by the attending physician, nursing staff and other medical personnel;

Failure to demonstrate personal effort to improve the overall quality of care being provided to the patient by the medical and nursing staff;

Failure to ensure that the nursing staff implemented a care plan that addressed the specific measures necessary to treat a highly complex total care resident;

Failure to ensure that the medical and nursing staff provided adequate monitoring and care to prevent the development and worsening of numerous infected decubitus ulcers;

Failure to ensure that the nursing staff appropriately assessed, monitored and consistently documented the status of the patient's skin, wounds and clinical condition during her stay;

Failure to monitor and timely obtain treatment orders for infections;

Failure to recommend that appropriate medical consultants were consulted when the patient's pressure sores continued to worsen;

Failure to ensure that the patient's skin remained free of pressure sores throughout her stay at the facility;

Failure to ensure that nursing staff notified the physician and family members of significant changes in the patient's clinical condition throughout her stay;

Failure to ensure that the nursing staff followed physicians' orders and administered medications and treatments as ordered;

Failure to ensure that the nursing staff provided appropriate care to the patient's tube stoma site in order to prevent infections;

Failure to ensure that the nursing staff kept the head of the bed at an appropriate level in order to prevent aspiration pneumonia and other respiratory problems;

Failure to ensure that the patient was properly medicated for pain;

Failure to evaluate and address the continued appropriateness of the patient's medical regime during her residency and change the plan of care as needed; and

Failure to ensure that the nursing staff followed proper nursing policy and procedures for performing gastrostomy feedings.

The Appellate Court of Illinois ruled that the allegations of the family's lawsuit contained a correct statement of a nursing facility's director of nursing's responsibilities to a patient in the facility.

DON Liable for Malpractice

Although the director of nursing herself provided only minimal direct hands-on care to this and other patients, she was still a healthcare provider in her supervisory capacity as director of nursing and could be held liable for malpractice in carrying out her supervisory responsibilities. ***Childs v. Pinnacle Health, __ N.E.2d __, 2010 WL 989037 (Ill. App., March 17, 2010).***