

# LEGAL EAGLE EYE NEWSLETTER

September 2014

*For the Nursing Profession*

Volume 22 Number 9

## Patient Fall: No Nursing Negligence Found In Patient Fall-Risk Assessment, No Bed Alarm.

The elderly patient died from a subdural hematoma sustained falling in the bathroom of her hospital room.

The US District Court for the District of South Dakota ruled there was no negligence by the nurses caring for her in an Indian Health Services hospital and dismissed the lawsuit filed by the family against the US government.

### Admission Fall Risk Assessment

The patient was admitted through the emergency department for dizziness and nausea she had been having over the previous three days. She had a long history of heart problems, was on numerous meds that can cause dizziness and was unsteady on her feet.

The nursing assessment indicated the patient was dizzy and had fallen at home at least four times and had the bumps and bruises to prove it, but was nevertheless alert and oriented x3.

The hospital had adopted a widely published fall precautions policy which required use of the Morse scale for fall-risk assessment and a bed alarm for fall risk patients.

The Morse scale was not used to score this patient's fall risk on admission, but the Court was satisfied the nurses correctly assessed this patient as being at risk of actual injury from a fall. The particular assessment instrument they used was a legally irrelevant detail.



***The nurses repeatedly assessed the patient and noted she was alert and oriented and able to understand their teaching to use the call button for help before rising from bed.***

***No bed alarm was in use. However, the hospital's expert pointed out that the scant published research questions the efficacy of bed alarms.***

UNITED STATES DISTRICT COURT  
SOUTH DAKOTA  
July 15, 2014

The nursing fall prevention plan included lowering the bed, locking the wheels, teaching the patient on the use of her call button, putting the call button within her reach and assigning the patient to a room where she was visible in bed from the nurses station. All these interventions were implemented.

### Continuing Fall Risk Assessment

The Court detailed at great length the meticulous ongoing nursing assessments that were done and charted in the days leading up to the patient's fall.

The nurses consistently assessed her mental status as alert and oriented.

That proved to the Court that the patient was at all times able to comprehend her own physical limitations and was able to understand her need for assistance to stand and walk and the necessity to use her call button to ask for that assistance.

The last nursing progress note before the patient fell was completed after a 4:00 a.m. trip to the bathroom. The patient used her call button. A nurse went to the room, helped her out of bed, helped her use her walker to get to the bathroom, stood by, helped her off the toilet and walked her back to bed. The nurse got and recorded her vital signs and noted she was alert and oriented x3.

*Continued on page three.*

Inside this month's issue...

September 2014

New Subscriptions  
See Page 3

Nursing Fall-Risk Assessment/Bed Alarm - School Nursing  
Fall/Nurse's Disciplinary Record - Religious Discrimination  
Crohn's Disease/Nurse/Disability Discrimination  
Occupational Injury/Nurse/Disability Discrimination  
Hearing Impairment/Nurse/Disability Discrimination  
Nursing License - Morphine/Nursing Negligence - EMTALA  
Hospital Discharge/Post-Colonoscopy - Laparotomy Sponge  
Occupational Injury/Worker's Comp - Nursing Home/Arbitration

# Patient Fall: No Nursing Negligence In Patient Fall Risk Assessment, No Bed Alarm (Continued).

Continued from page one.

About ten minutes later a nurse at the nurse's station heard a sound and immediately went to the room. The patient was on the floor in the bathroom. The call light had not come on.

The nurse examined her and called the physician, who ordered x-rays and a CT scan. The patient deteriorated. A neurosurgeon intubated her and had her flown to a regional trauma center where she died.

## No Bed Alarm

The family's nursing expert had to admit that a patient can fall without any negligence in the nursing assessment of the patient's fall risk.

The family's nursing expert focused her testimony on the fact that no bed alarm was in use with this patient. The hospital had used bed alarms until a year earlier, but by this time the alarms were no longer being maintained and none of them actually worked any more.

However, the Court accepted instead the hospital's expert's testimony, a physician board-certified in internal medicine with a sub-specialty in geriatrics who teaches epidemiology and has published an article questioning the efficacy of bed alarms. His opinion was that use of bed alarms for fall prevention is not required by the legal standard of care.

**The non-use of a bed alarm was a central issue in this case.**

**The Court must rule it is only speculation that a nurse could have responded quickly enough after a bed alarm sounded to intercept this patient before she fell.**

**The nurse on duty fulfilled her legal duty by checking on the patient frequently, apparently just ten minutes before she fell, assuming the nurse's charting was accurate.**

**The patient was alert and oriented as to person, place and time. The side rails were up to remind her she was not supposed to get up on her own and the call button was within her reach.**

**There is no solid proof that any error or omission by the nurses caused this patient's fall.**

UNITED STATES DISTRICT COURT  
SOUTH DAKOTA  
July 15, 2014

The hospital's expert's own randomized statistical study showed that use of bed alarms had no discernible effect on reducing the number of falls or injuries from falls in hospital patient populations.

First, according to the expert, bed alarms produce many false alarms, resulting in "alarm fatigue" for nurses. Having to respond to many false alarms from hospital equipment tends to delay responses. Frequent false alarms increase the probability of a nurse being in one hospital room tending to a false alarm when a real alarm sounds that the nurse cannot hear.

Second, a bed alarm will not necessarily sound an alarm in time to prevent a fall. Bed alarms work from a sensor pad on the bed. If the patient's weight is not on the sensor pad, for example, if the patient has rolled to one side of the bed or has sat up, the bed alarm may not sound.

Some bed alarms have a four to eight second delay, to reduce the number of false alarms from the patient simply shifting position in bed.

Bed alarms cannot prevent a fall when a patient falls right out of bed or falls shortly after getting out of bed or falls even though the nurses with all due diligence cannot get there quickly enough.

The Court said it was arguable that a bed alarm could have made a difference for this patient, who walked perhaps fifteen feet on her own before she fell, but the Court was not willing to impose liability on the hospital based simply on that speculation. **Wierzbicki v. US**, \_\_ F. Supp. 2d \_\_, 2014 WL 3530142 (D.S.D., July 15, 2014).

LEGAL EAGLE EYE NEWSLETTER  
For the Nursing Profession  
ISSN 1085-4924

© 2020 Legal Eagle Eye Newsletter

Published monthly, twelve times per year.

Print edition mailed First Class Mail  
at Seattle, WA.

Electronic edition distributed by email file  
attachment to our subscribers.

E. Kenneth Snyder, BSN, JD  
Editor/Publisher

PO Box 4592  
Seattle, WA 98194-0592  
(206) 718-0861

[kensnyder@nursinglaw.com](mailto:kensnyder@nursinglaw.com)  
[www.nursinglaw.com](http://www.nursinglaw.com)

LEGAL EAGLE EYE NEWSLETTER PO BOX 4592 SEATTLE WA 98194-0592

(206) 718-0861 Clip and mail or order online at [www.nursinglaw.com/subscribe.htm](http://www.nursinglaw.com/subscribe.htm)

Print \$155/year \_\_\_\_\_ Email \$120/year \_\_\_\_\_

Check enclosed \_\_\_\_\_ Bill me \_\_\_\_\_ Credit/Debit card \_\_\_\_\_

Visa/MC/AmEx/Disc No. \_\_\_\_\_

Signature \_\_\_\_\_

Expiration Date \_\_\_\_\_ CVV Code \_\_\_\_\_ Billing ZIP Code \_\_\_\_\_

Name \_\_\_\_\_

Organization \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Email for Email Edition\* \_\_\_\_\_

\*Print subscribers: provide your email and receive Email Edition at no extra charge.