

Patient's Fall: Nurse Should Have Stood By With The Patient.

The patient was having complications following hip-replacement surgery.

Because of deficits in his balance and movement his physician wrote an order that his nurse accompany him and assist him in returning to his bed any time that he got up to use his bathroom.

Despite the physician's orders, his nurse allegedly assisted him to ambulate from his bed to his bathroom and then left the hospital room while the patient was still in his bathroom.

The patient fell and was seriously injured when he tried to ambulate from his bathroom back to his bed.

The Court of Appeals of Minnesota ruled the physician's order left no room for professional judgment by his nurse how to assist him safely to the bathroom and back.

The patient's nurse was negligent for violating the nursing standard of care by failing to follow the physician's explicit order for stand-by assistance, the Court said. The patient did not need a nursing expert's opinion defining the standard of care to succeed in his lawsuit against the hospital. Moore v. Park Nicollet Hosp., ___ N.W. 2d ___, 2011 WL 6306658 (Minn. App., December 19, 2011).

E.R.: Psychiatric Patient Alleges Substandard Nursing Care, Court Dismisses Patient's Lawsuit.

The E.R. nurse put the patient on suicide watch after he admitted he was suicidal and called security to prevent him from leaving the hospital until he could be evaluated by a physician.

That was an exercise of professional judgment. Expert testimony is required as to the standard of care for evaluating and treating a mental-health patient for the patient to be able to sue the hospital.

The legal rules are not changed by couching the lawsuit as one for battery, false imprisonment, intentional infliction of emotional distress and violation of the US Rehabilitation Act of 1973. A nursing expert still has to come forward and explain just what the nurses did that was wrong.

UNITED STATES DISTRICT COURT
MINNESOTA
December 12, 2011

The patient had a history of depression, obsessive compulsive disorder and schizophrenia.

When he phoned the hospital's information line with questions about mental health treatment he was told to come in to the emergency department.

In the E.R. he was seen by a male nurse. The patient felt threatened by male nurses. The nurse asked him if he was suicidal and allegedly told him if he was he would be locked up and forced to take meds, whereupon the patient changed what he had said and said he was not suicidal.

The nurse decided to keep him anyway and put him on suicide watch. That meant sending him to a bare room with only a mattress on the floor. The nurse summoned two security guards when the patient balked at complying.

In the suicide-watch room another male nurse in came to draw blood. The patient asked for a female nurse, but none was provided. Several needle sticks were attempted before a sample was obtained. A large bruised area remained on the arm.

Then the first nurse came to the room to apologize for being abrupt with him earlier, but the patient would not see him.

The US District Court for the District of Minnesota dismissed the patient's case because the patient had no opinion from a nursing expert detailing what the nurses or the hospital did that was below the standard of care, that not being obvious from the facts. Phillips v. Fairview, 2011 WL 6151514 (D. Minn., December 12, 2011).

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