

LEGAL EAGLE EYE NEWSLETTER

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Patient Not Restrained, Falls While Out Of Bed: When Are The Nurses Responsible?

A patient was admitted to the hospital following a stroke.

On admission her nursing assessment included the observation that patient safety would be a primary concern in rendering her nursing care.

A physical therapist also assessed her and charted her observation that the patient was impulsive, had problems with safety awareness and with balance and required direct assistance with transfers and ambulation.

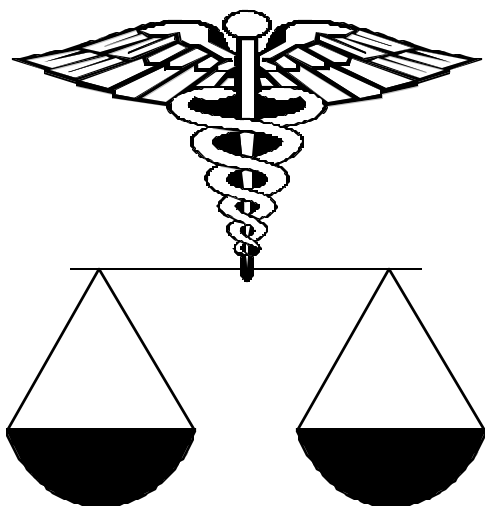
Her doctor intended her rehabilitation to focus on improving her judgment, safety awareness and communicative abilities.

The doctor wrote orders she was not to get out of bed without assistance from hospital staff. Staff were to transfer her in all movements in or out of bed. However, the doctor did not order restraints for her while she was in bed.

Her nurse heard a bump and found the patient on the floor in her bathroom at 3:15 a.m.

After some delay in diagnosing her injuries she was treated for a broken hip.

She died from lung cancer. Her husband as probate representative continued the lawsuit she filed against the hospital alleging that negligence by her doctor and nurses caused her to fall.



There were two versions of what happened.

The patient's husband said his wife told him she repeatedly called for assistance, and got up by herself because no one would come to assist her.

The patient's nurse said the patient said she did not want to bother anyone, and she apologized after she fell for not ringing her nurse for help.

SUPREME COURT OF APPEALS OF WEST VIRGINIA, 2000.

The local county judge exonerated the hospital because there was no expert medical opinion that the doctor was negligent for not ordering restraints for this patient.

The Supreme Court of Appeals of West Virginia agreed that was a correct ruling, but it was correct only as far as the doctor's legal responsibility was concerned.

The Supreme Court sent the case against the hospital back down to the local county court for a civil jury trial to ascertain if the nurses were at fault.

The nurses would be at fault and their employer the hospital would be liable for damages if the jury believed the patient was in the habit of ringing for assistance to get out of bed and had been ignored and for that reason got out of bed on her own to go to the bathroom and then fell.

The nurses and the hospital would not be at fault, on the other hand, the Supreme Court ruled, if the jury believed the patient's nurse who said the patient had achieved a suitable level of awareness of her impaired balance and understood the safety issues it presented, but nevertheless got up on her own ignoring her caregivers' advice. **Banfi v. American Hospital for Rehabilitation, 529 S.E. 2d 600 (W. Va., 2000).**

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