

Risk Management: Court Limits Attorney-Client Privilege.

An eighty-two year-old family member of a patient fell on ice and snow in the medical facility's parking lot.

A housekeeper happened to look out the window and saw him on the ground. The housekeeper told the nursing supervisor on duty and quickly went out to the parking lot to help the man.

The nursing supervisor also went out to help him and right afterward filled out an incident report for risk management. Risk management, sensing that a lawsuit was in the offing, referred the matter to outside legal counsel. The outside legal firm sent in an attorney to interview the nursing supervisor and the housekeeper.

Does the Nursing Supervisor Have To Answer Questions in a Deposition?

The issue at this point is whether the nursing supervisor must answer questions in a pre-trial deposition.

The Superior Court of Connecticut ruled she must testify.

What she told the attorney will be off-limits. Simply what she saw, what she heard and what she did, however, are not off-limits, even though the same facts were put in the incident report and told to the attorney. **Adams v. Johnson Memorial Hosp.**, 2008 WL 4308083 (Conn. Super., September 2, 2008).

The basic facts are proper subjects for testimony, what the nursing supervisor saw, what she did and what the man may have said.

What she told the facility's attorney is protected by the attorney-client privilege.

SUPERIOR COURT OF CONNECTICUT
September 2, 2008
