

Substandard Skin Care: Court Finds Grounds For Lawsuit.

The sixty-nine year-old patient was admitted to a facility for ventilator-dependent patients.

His diagnoses included respiratory failure, deconditioning, pulmonary fibrosis, shortness of breath, acute respiratory distress syndrome and malnutrition.

He arrived from the acute-care hospital alert but on a ventilator with a trachea, IV, Foley catheter and a feeding tube.

The nursing notes on admission documented there was no breakdown of skin integrity, wound, redness or discoloration anywhere on his body. Nevertheless, his Braden Scale score of 10 put him at high risk for breakdown of skin integrity.

He soon developed Stage II lesions on his sacrum and buttocks for which dressings with Santyl and later hydrocolloid were ordered. As his overall condition deteriorated he became incontinent of urine and then of feces. He passed away eight weeks after entering the facility.

Nursing Expert Sees Substandard Skin Care

In the family's lawsuit the Court of Appeals of Texas accepted the opinions of the family's nursing expert as an adequate foundation for allegations of negligence.

The nursing expert was able to find specific departures from the standard of care that stood out directly from the nursing documentation.

Although the Santyl dressings were ordered by the physician to be changed at least on a daily basis, not every day was a dressing change documented.

Similarly the hydrocolloid dressings which were ordered later to be done every three to five days were not documented as being done on schedule.

The nursing expert was also able to pinpoint numerous dates in the chart when the patient was not repositioned every two hours as ordered and as required as a basic nursing intervention for a high-risk patient. On two dates it was actually documented when the patient was turned that he had not been turned for ten hours.

A physician gave an opinion that failing to perform these nursing interventions caused progression of loss of skin integrity. **Select Specialty v. Simmons**, 2013 WL 3877696 (Tex. App., July 25, 2013).

The patient's family's nursing expert currently practices and teaches in the field of obstetrics.

That fact does not disqualify her as a nursing expert in the specific subject areas of identifying patients at risk of loss of skin integrity and detailing appropriate nursing interventions for their care.

She is currently licensed as a registered nurse and has over thirty years of nursing experience which has included caring for cardiovascular, internal medicine, surgical, urology, obstetrical, oncology and radiology patients, including elderly patients who required prevention, dressing, treatment and care of skin wounds and pressure ulcers.

The family's nursing expert has her own practice as a consultant who deals with subjects that include direct patient care of skin wounds and writing nursing practice and procedure manuals for skin care.

It is not relevant that she has never actually treated a ventilator patient with comorbidities of respiratory failure, deconditioning, pulmonary fibrosis, shortness of breath and acute respiratory distress syndrome.

COURT OF APPEALS OF TEXAS
July 25, 2013

Skin Care: Court Lets Family's Lawsuit Proceed.

The county district court judge dismissed the family's lawsuit. The lawsuit had challenged the adequacy of the care the deceased received in a nursing home.

The grounds given by the judge for dismissal of the suit were that the family's expert witnesses, two physicians, were not qualified to give opinions on the standard of care and did not state in their opinions what exactly the nursing home's nurses failed to do or did do wrong.

The Court of Appeals of Texas reversed the judge's decision and let the family's lawsuit proceed.

Substandard Skin Care

When the deceased entered the nursing facility he had no pressure sores, specifically no lesions on his heels, sacrum or coccyx. Nevertheless, he developed lesions in those specific areas while he was a patient in the facility.

The family's expert outlined the standard of care by paraphrasing Federal regulations for quality of care in long-term care facilities.

Based on the comprehensive assessment of the resident, the facility must ensure that a resident who enters the facility without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrates that they were unavoidable.

The facility must ensure that a resident having pressure sores receives the necessary care, treatment and services to promote healing, prevent infection and prevent new sores from developing.

According to the expert, the resident's peripheral vascular disease, which impaired arterial circulation in his legs and feet, put him at high risk for pressure sores, but it did not make the development of pressure sores unavoidable for him.

On the question of unavoidability, the defendant nursing facility has the burden of proof after the fact in a court of law. The facility must prove through documented assessment of the resident's condition before the fact that development of pressure sores was unavoidable, to have a chance of avoiding legal liability.

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