Sonogram Gel On The Floor: Patient Slipped And Fell.

The patient got up from bed to go to the restroom, slipped, fell to the floor and was injured just after his nurse had finished a bladder scan imaging test, washed her hands and left the room.

He claimed he saw the nurse shaking her hands as she walked from the bedside to his bathroom to wash the sonogram gel from her hands.

The patient sued the hospital for negligence. The hospital countered by insisting the case be dismissed because the patient did not file an expert witness report with the court to support his case.

The issue in this case is not the standard of care for how much or how little lubricating gel a nurse should use when performing a particular sonogram scan.

It is common knowledge and requires no exercise of professional judgment to recognize that a slippery substance on the floor can cause a person to slip and fall and sustain personal injuries.

COURT OF APPEALS OF TEXAS
May 13, 2010

The Court of Appeals of Texas ruled that this is not a professional malpractice case, but a case of ordinary negligence. As such, the patient does not need an expert witness on professional standards of nursing practice.

The patient was *ad lib* to get out of bed on his own and was not relying on his caregivers for competent assistance at the moment he fell. He had the same legal status as a patron of a retail establishment who falls on a substance he was not aware of that the proprietor caused to be present or knew about and failed to remove. **St. David's Healthcare v. Esparza, __ S.W. 3d __, 2010 WL 1930222 (Tex. App., May 13, 2010).**

Dialysis: Motor Vehicle Accident On The Way Home.

The patient was injured in a motor vehicle accident while driving herself home from her dialysis treatment. The investigating police officer determined it was her own inattention that caused her to rear-end another vehicle.

The patient sued the dialysis facility. In her lawsuit she alleged that the nurses negligently gave her the OK to drive herself home without fully assessing her vascular stability, that is, without taking a standing blood pressure after she was done with her dialysis treatment. A standing blood pressure, it was alleged, would have shown she was hypotensive as a result of fluid loss during the treatment.

The patient's nursing expert is prepared to testify that the type of treatment the patient received can increase the patient's chance of blood pressure instability, dizziness and fatigue.

However, there is no solid evidence the patient was hypotensive at the time of the accident or that hypotension caused her inattention to her driving.

UNITED STATES DISTRICT COURT
NEW JERSEY
May 7, 2010

The US District Court for the District of New Jersey dismissed the patient's case.

The patient's nursing expert was only able to say in general terms that dialysis treatment can leave a patient hypotensive and that driving while hypotensive can be hazardous, but she had no basis to testify that this patient was in fact hypotensive when she had her accident.

The patient herself did not complain that she felt dizzy, fatigued or otherwise impaired. The Court did not see any necessity for the nurses to have obtained a standing blood pressure in the absence of such symptoms. **McHugh v. Jackson, 2010 WL 1875578 (D.N.J., May 7, 2010).**

Sexual Harassment: Physician Was Not A Hospital Employee.

The New Jersey Superior Court, Appellate Division, ruled that the hospital could not get around liability in a staff nurse's sexual harassment lawsuit by claiming that the physician/perpetrator was not a hospital employee but instead was only an associate of an independent medical-practice group whose members had staff privileges to practice at the hospital.

The fact the hospital had an anti-harassment policy is no defense.

It was not entirely clear whether the policy applied to non-employees, whether it was communicated to the physician or whether any attempt was made to enforce it with the physician in this particular case.

That is, the hospital's policy was not an effective anti-harassment policy.

NEW JERSEY SUPERIOR COURT
APPELLATE DIVISION
April 28, 2010

An employer has a legal obligation to take affirmative measures to deter sexual harassment before the fact and to stop it once it is reported.

The hospital apparently did not require non-employee physicians practicing at the hospital to participate in sexual harassment training and was at best only equivocal in dealing with it after it occurred.

The Court said that a perpetrator crosses the line from obnoxious behavior which might not be serious enough for a lawsuit to outright harassment when unwanted touching of a sexual nature occurs. **Collelo v. Bayshore Community Health, 2010 WL 1753164 (N.J. App., April 28, 2010).**

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