

# Alzheimer's Patients and Nursing Risks

## Avoiding Liability Bulletin - June 15, 2016

Patients diagnosed with Alzheimer's Disease require unique care. Not only must their medical needs be attended to, their cognitive requirements must be assessed and the person's plan of care tailored to those needs.

In *Hamilton v. Metropolitan Hospital Authority*<sup>1</sup>, the Court of Appeals of Tennessee discussed these needs in a Memorandum Opinion.<sup>2</sup>

E.T., an eighty-five-year-old female resident lived in a nursing home with a diagnosis of Alzheimer's Disease, dementia, psychosis, delusions and a number of physical conditions. She also had frequent agitated behavior. One day, she fell in the doorway of her room and broke her hip.

A nurse in the hallway heard the resident raise her voice before the fall, but she was unable to get to the room before it occurred.

When the nurse arrived at the resident's room, she saw another Alzheimer's resident in the room approximately fifteen feet from the resident who fell. E.T. told the nurse that the other resident had pushed her and caused her to fall.

The resident who was in E.T.'s room did not have a history of aggressive behavior toward the other residents. Moreover, it was not unusual for residents to be in other resident's rooms since the facility treated "wandering" as an important part of the residents' treatment.

E.T.'s daughter filed a complaint alleging professional negligence against the facility. E.T.'s daughter was appointed her guardian during the proceedings when E.T. was not mentally competent to proceed on her own behalf.

After a one-day bench trial (no jury), the trial court entered a judgment in favor of the facility, opining that the daughter had failed to prove by a preponderance of the evidence that the facility's actions or inactions were a proximate cause of the injury to E.T. In addition, the court held that the daughter failed to prove that the risk of harm to E.T. was reasonably foreseeable. The daughter appealed.

The appellate court carefully reviewed the applicable law and the "sparse" trial court record and concluded that E.T.'s fall was an unfortunate accident. E.T.'s agitated behavior made her more prone to falls and this could have been the reason for her injury. Clearly, the court stated, the cause of her fall was not another resident pushing her, a resident who had no history of aggressive behavior.

The appellate court upheld the trial court's judgment and remanded the case back to the judge for any further proceedings that were necessary. The court also opined that it would not make "a new rule of law" in tort liability that would result in nursing homes being required to restrain Alzheimer's patients in their beds when agitated in order to avoid a lawsuit for a purely accidental fall.

Although this case is binding only on the parties to the suit, it does provide guidelines for those of you who work with Alzheimer's residents or patients. A careful and thorough assessment of the person's capabilities and limitations must be done and documented. The plan of care must reflect these capabilities and limitations and provide direction to all staff members who care for the individual.

Alzheimer's residents will wander but they must be able to do so in a safe environment. This includes vigilant monitoring, either with electronic devices or by observation, or both. Doors leading to the outside, or off the unit, must be locked at all times.

If restraint of any kind is necessary for an Alzheimer's patient, it must be done carefully and consistently with all applicable laws and facility policy. Monitoring of the person while in restraints is essential.

When residents display agitated behavior, all nursing staff must ensure that the agitation does not lead to an injury to another patient and staff or, in this case, an injury to the individual himself or herself.

Were some of the facts different in this case, facility liability might have been found. Luckily for the nurses and nurses' aides, they met their standard of care. E.T. suffered an injury that this court, based on the evidence before it, held was an accident.

The court also protected the rights of those with Alzheimer's to be treated as humanly as possible as their condition warrants instead of experiencing a steadfast rule that requires they be restrained in a bed or in a chair regardless of the need for that restraint.

**FOOTNOTES**

1. No. M2006-00113-COA-R3-CV, 1-3 (Tenn. App. 9/28/2007).
2. A Memorandum Opinion is one that is not published, is only binding on the parties to the suit, and cannot be cited or relied on for any reason in any unrelated case (Note, page 3).

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