The Fourth Element of Negligence

Q Did the nurse’s violation of his or her duty or standard of care cause an injury to the patient?

A In our previous discussions about “negligence,” we illustrated a nurse’s “violation of his or her duty” to the patient within the context of the “standard of care” that applied. This was illustrated by the common policy that states that “bed rails must be in the up position at all times.” This policy defines the standard of care that the nurse must meet. When a nurse is on duty and has formed the nurse-patient relationship, this standard applies to his or her practice.

In our last column, we discussed that violation of the nurse’s duty occurs when the nurse drops the bed rail while standing directly next to the patient, who is in bed, and then leaves the bedside without bringing the rail up. The bed rail remains down while the nurse is gone.

In this simple scenario, let’s review the 3 elements of negligence that have been discussed.

• Did the nurse have a duty to the patient? Yes.
• What was the standard of care? The policy determines the standard of care—bed rails must be up at all times.
• Did the nurse violate her duty or standard of care? Yes, because the nurse left the bed rail down when he or she left the patient’s bedside.

The next question that must be answered to determine negligence is, Did the nurse’s violation of his or her duty or standard of care cause an injury to the patient?

Consider 2 hypothetical situations. In the first, the nurse returns to the bedside, the patient remains in the same position as when the nurse left the bedside. Nothing has moved, and the patient is in bed. Has an injury occurred? No. Is there negligence? No.

Second, the nurse returns to the bedside. This time, the patient, an 86-year-old man with hip replacement surgery, is on the floor moaning and groaning. The patient is obviously in acute pain and has fallen out of bed because of the lowered bed rail. Because of the fall, the patient returns to surgery; his hospital stay is extended for 3 additional weeks; he misses his favorite granddaughter’s wedding, which was scheduled after he was to be originally discharged; he goes into a deep depression because of the missed wedding; and he gets a decubitus ulcer, needs treatment and then needs physical therapy because of the extended stay. In this hypothetical situation, has an injury occurred? Most definitely. Is there negligence? Not yet, but we are getting closer. The injury analysis is just another element that must be proven by the plaintiff.

Using the second hypothetical situation, we have found the following:
• Did the nurse have a duty to this patient? Yes.
• What was the standard of care? Bed rails up at all times.
• Was there a violation of his or her duty or standard of care? Yes, because the bed rails were lowered and the nurse left the bedside with the bed rails lowered.

Was there an injury that occurred because of this violation? Yes. The patient fell out of bed, returned to surgery, extended his hospital stay, missed his granddaughter’s wedding, formed a decubitus ulcer, needed treatment and then needed physical therapy and so on.

Only 1 element of negligence remains. The next question is, Were...
there compensable damages because of this injury? We will answer that question in our next column. Determining negligence is a logical and systematic process of looking at each element and finding facts and evidence that support or defend each element.

Information appearing in Legal Counsel is for general purposes and is not intended to replace legal advice. For specific situations, consult your facility's legal representation or a personal attorney.
The Fourth Element of Negligence
Ruthe C. Ashley

Crit Care Nurse 2004;24 78-79
Copyright © 2004 by the American Association of Critical-Care Nurses
Published online http://ccn.aacnjournals.org/

Personal use only. For copyright permission information:
http://ccn.aacnjournals.org/cgi/external_ref?link_type=PERMISSIONDIRECT

Subscription Information
http://ccn.aacnjournals.org/subscriptions/

Information for authors
http://ccn.aacnjournals.org/misc/ifora.xhtml

Submit a manuscript
http://www.editorialmanager.com/ccn

Email alerts
http://ccn.aacnjournals.org/subscriptions/etoc.xhtml