

MALPRACTICE COUNSEL

Commentary by Francis L. Counselman, MD, Associate Editor-In-Chief | Neal E. Flomenbaum, MD, Editor-In-Chief

Failure to Properly Supervise?

A 59-year-old woman was taken to a New Jersey hospital in May 2007 after overdosing on medication. She was placed on a stretcher and administered activated charcoal. A nursing assistant was assigned to supervise her in case of any suicide attempts.

The patient experienced diarrhea and went to the bathroom several times, walking back and forth from her stretcher to the restroom. She claimed that while in the bathroom she lost consciousness and fainted. She fell to the floor and fractured her left orbital bone.

The patient claimed that she should have been seen as “at risk” for falling and more closely monitored. The defendant denied that the plaintiff was at risk for falling and maintained that proper monitoring was in place.

Outcome

According to a published account, a defense verdict was returned. A post-trial motion was pending.

Comment

Unfortunately, we do not know what type of medication the patient overdosed on prior to presentation to the ED. If it was a narcotic analgesic, a benzodiazepine, or other central nervous system–altering medication, the patient required closer supervision. However, if the medication taken did not affect the CNS (eg, acetaminophen, NSAID), allowing the patient to ambulate to and from the bathroom was perfectly appropriate.

It seems the ED is held to unattainable standards by some individuals—that is, nothing adverse should ever happen to them while they are in the ED (and if something does, the ED is guilty of negligence). People trip, fall, and pass out at times by their own doing, not because of the action (or inaction) of others. Common sense should be applied in such situations. **FLC**

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