

Two Student Nurses Drop Patient

On Nov. 8, 1999, MW, age 18, suffered injuries to both legs and to her left arm in a single car collision. She was transported by her father to a hospital in Ft. Pierce, Fla. Shortly after her admission, x-rays revealed that MW had suffered a right ankle fracture, a left knee fracture, and a hairline fracture to her left upper arm. An orthopedic surgeon immobilized MW's right ankle and left knee, placed her left arm in a sling, and placed her on both upper and lower body non-weight-bearing status. Fortunately, none of MW's injuries required surgery.

Days following her admission, MW and her mother, who stayed with her daughter during her entire hospital stay, would periodically leave the hospital room to go outside. MW was encouraged to do this by her doctor.

On Nov. 10, two student nurses (B and C) offered their assistance to help MW get back into bed after she had been outside. Student nurse B positioned herself on one side of MW's wheelchair and student nurse C went around to the other side. Using a bed sheet, the two student nurses attempted to lift MW from the wheelchair to the bed. In doing so, the nurses dropped MW and she banged her left arm against the bed, traumatically displacing the fracture to her arm. The newly displaced fracture then required surgery in which a rod was implanted to fixate MW's displaced fracture.

Retained by MW, attorney Karen Terry began investigating the circumstances. The hospital records were

devoid of any description of the incident, with the exception of notes dictated by the orthopedic surgeon who was not present when MW was dropped. The nurses' notes in the chart were also devoid of any mention of the incident.

Shortly after litigation ensued, Ms. Terry took the depositions of student nurses B and C. Both denied dropping MW or injuring her in any way. Consequently, the hospital also denied any responsibility for MW's injuries.

Despite the defendants' denial of liability, there was quite a bit of circumstantial evidence supporting the plaintiff's version of the events. The chart recorded that pain medication was suddenly ordered for MW immediately after the incident, and a "STAT" (emergency) x-ray of her arm was also ordered. MW also suffered swelling and bruising in her upper arm. In addition, MW's treating surgeon testified that it would have taken blunt trauma and a significant force to displace MW's fractured arm. Nevertheless, the defendants implied that MW displaced the fracture herself or that her mother might have displaced it by assisting MW in her bed.

To further complicate matters, the hospital denied responsibility for any actions or inactions of the student nurses working there. The hospital argued that the student nurses were not employed by or agents of the hospital, but rather were acting solely on behalf of the local community college they attended. In doing so, the hospital attempted to shift liability to the college, which, as part of the public school system, would enjoy sovereign immunity protection and capped

damage exposure under Florida law.

Depositions from several other people were taken in the case, including MW's mother and the floor nurse in charge of MW's care when the incident occurred. The floor nurse testified that the student nurses should never have attempted MW's transfer. She confirmed that MW suffered bruising and swelling consistent with a traumatic injury, and that she had no reason to believe that MW and her mother were not completely forthright about the events which had transpired. She also agreed that the hospital chart was woefully under-documented, especially in light of the fact that the student nurses claimed they were falsely accused of wrongdoing.

MW endured the initial surgical procedure to implant hardware in her shoulder. In April 2000, after months of failed physical therapy, MW had a second surgery to remove the hardware as it was interfering with the rotation of her shoulder. The two surgeries left MW with multiple scars across her left shoulder and down her arm. Physical therapy resumed, and MW was ultimately assigned a six percent whole person impairment.

After 18 months of hard-fought litigation, MW's case was settled with both the hospital and the two student nurses for confidential amounts. MW plans to use the proceeds of her settlement to settle her outstanding medical expenses and then pay for her college education. ■