

WHICH PROFESSIONAL WAS RESPONSIBLE FOR THE PATIENT'S PRESSURE WOUNDS?

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Patients often present for care in the ED and hospital setting with pressure wounds. Wound care is a specialized area of nursing practice that requires knowledge not only of [what might cause pressure wounds, their assessment and care](#), but also what nursing care is essential to the overall well-being of the patient.

In the following case (Piparo v. Coney Island Hospital, New York City Health and Hospitals Corporation, Number 507520/2019 Mo. Seq. 1, Kings County Supreme Court, March 10, 2025), exactly who was responsible for the patient's pressure wounds and care became the focus of the court's decision when presented with a [Summary Judgment Motion](#).

Developments Prior to the Legal Case Filed

The 65-year-old female patient went to her nearby hospital ED with fever, vomiting, and diarrhea for 3-4 days. The diarrhea was "watery and green." The patient recently tested positive for the flu at an urgent center facility.

In the ED, the patient had to be changed and washed many times due to her diarrhea. After about an hour and a half in the ED, it was noted and documented by an RN in the ED that "discoloration and eschar on both the left and right buttocks was present. The patient was admitted with a primary diagnosis of pneumonia and placed on isolation precautions.

The next day, a wound care RN did a wound care assessment. She noted "unstageable pressure ulcers on both the left and right buttocks. The RN instructed Versa Care, skin care protocols, and a referral to a doctor for a surgical debridement consult. She also instructed nursing staff to apply collagenase, saline and dry dressings to the areas.

The next day, a surgical consult took place, and the patient was diagnosed with stage II decubitus ulcer with no signs of infection or necrotic tissue. The doctor ordered continuation of the local wound care but not debridement at the time. Two days later, however, a "sharp debridement" of the right gluteal fold was done.

The next day, the patient was discharged with orders for follow-up dressing changes and wound care by visiting nurse service.

Patient Files Medical Malpractice Suit

The patient alleged in her lawsuit that the hospital, through its physicians, nurses, and staff, departed from the applicable standard of care by failing to timely and properly treat her injuries in the ED and upon admission.

In addition, she alleged that the departures proximately caused the worsening of her pressure wound, resulting in skin breakdown that was initially noted as “small” but later required surgical debridement.

She also alleged a lack of informed consent for her treatment, negligent hiring and retention of hospital staff who cared for her, and several state public health law violations.

The Defendant filed a Motion for Summary Judgement, a dismissal of the patient’s complaint and all of its claims.

Court Proceedings

The hospital submitted an affidavit from an RN who was board certified in ostomy and wound care nursing. In her opinion as to the nursing staff and its care, she attested, among other things, that:

- The patient was monitored closely and changed numerous times while in the ED, consistent with the standard of care for patients with severe diarrhea
- The ED nurse timely document the two existing pressure wound on the buttocks with “discoloration and eschar” and contacted the attending physician
- Once admitted to the hospital, pressure injury prevention measures were implemented as directed by the physician and wound care consult
- Patient was able to move on her own and did not require turning and repositioning

Despite the RN’s opinion, the Court held that as an RN she was not able to opine on the treatment directed by the attending physicians nor if the treatment or non-treatment was the proximate cause of the patient’s injuries. As a result, the defendant failed to meet their burden on such issues of the timeline of the patient’s treatment and other issues governed by a physician(s) care.

Even so, the patient submitted an affidavit from her APRN and board certified wound, ostomy, and continence nurse. Again, the APRN opined as to the nursing care of the patient.

Among other declarations in her affidavit, the APRN stated that:

- The hospital staff failed to manage the patient’s diarrhea and failed to assess and clean the are appropriately during the time the patient was in the ED

- A skin assessment is to be done immediately on admission, but that assessment was not documented until 12 hours after her arrival at the hospital
- The evaluation done and documented of the patient's pressure wounds were "unclear and non-specific" without noting the location, size, depth, and other assessments required by the standard of care

The hospital raised the Court's ruling that the APRN's opinion cannot support the care or non-care given by physicians.

The Court agreed but pointed out that the hospital's own expert was not qualified as well to render an opinion as to the care of the physicians, so a summary judgment as to the medical malpractice claims and claims against the nursing staff must be denied.

The other claims raised by the plaintiff, however, are denied due to a lack of evidence to support them.

The Summary Judgment Motion is granted, the Court held, only as to the other claims but is denied as to the medical malpractice claims against the hospital and nursing staff.

Guidelines From This Court Decision

This case is valuable support for the importance of obtaining national certification in your area of nursing practice. Certification is an important credential because it signifies additional clinical expertise in your practice.

It is also important for increasing the potential for your nursing career. This potential not only includes obtaining a position in your area of practice but also includes the possibility of your role as an expert witness in court cases and professional licensure cases before your state board of nursing.

Many times, I have been asked if national certification increases the potential for liability if care is seen as causing an injury to a patient or an opinion as an expert witness is seen as unacceptable.

Nothing could be further from the truth. Remember that a nurse's standard of care is that of what other ordinary, reasonable, and prudent nurses (or, in this case, nationally certified wound care nurses) would have done in the same or similar circumstances. Your conduct is always measured by your nurse colleagues with the credentials both of you possess in a particular circumstance. As a result, this is a fallacious argument against certification.

The case also underscores when a summary judgment motion can or cannot be granted. In this case, the wound care nurse experts opined opposing positions concerning the care given to the patient.

As a result, a real issue of fact as to whether or not the care given to the patient by the nursing staff at

the hospital was consistent with the standard of care for that patient.

When there is an issue of fact that issue must be resolved by a trial where a jury or a judge determines the resolution of that issue. Hence, this case—and others like it—must be returned to the court for a trial where that issue, or issues, are resolved.

Last, the case is based on the ever-present concept of [*respondeat superior*](#). The nurses were not named as defendants in the case. Rather, the hospital was named as a defendant because it bears vicarious liability for its employees. When professional negligence is alleged by an employee or employee, the hospital must answer that allegation, especially so when the employee or employees are not named as defendants.

If you are employed as a wound care nurse and a case is filed against your employer, but you are not named in the lawsuit, you still need to contact your professional liability insurance carrier and notify them of the lawsuit. If you do not have professional liability insurance, you should consult with a nurse attorney or attorney.

Although you may not be named originally in the lawsuit, you may be required to testify about the care you gave. Having your own attorney to prepare you for that testimony is essential. Your care will be scrutinized by the defendant's attorney and if deemed negligent, you may be added as a defendant in the case. With the help of your attorney, honest testimony about the care your provided can avoid this outcome.

This information is for educational purposes only and is not to be taken as specific legal or other advice by the reader. Nor does it create an attorney-client relationship. If legal or other advice is needed, the reader is encouraged to seek such information from a nurse attorney, attorney or other professional.