FILED
AUG 26 1980
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

BENFORD M. WALKER, Exr. of The Estate of Florence E. Walker, Dec.,

Plaintiff-Appellant,

vs.

IOWA LUTHERAN HOSPITAL and ROBERT J. REED,

Defendants-Appellees.

Filed August 26, 1980

0-212
2-64219

Appeal from Polk District Court - John N. Hughes, Judge.

Executor of decedent's estate appeals from adverse judgment on directed verdicts in favor of defendant doctor and defendant hospital in medical malpractice action. Reversed and remanded.

Henry J. Haugan of Haugan and Miller; and Paul Moser, Jr.; Des Moines, Iowa, for plaintiff-appellant.

Robin L. Hermann of Patterson, Lorentzen, Duffield, Timmons, Irish & Becker, Des Moines, Iowa, for defendant-appellee hospital.

Michael H. Figenshaw of Bradshaw, Fowler, Proctor & Fairgrave, Des Moines, Iowa, for defendant-appellee doctor.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

This is a negligence action originally commenced by decedent's conservator and maintained after her death by her executor. The action seeks recovery for injuries received (fractured rib and pelvic bones) when decedent fell on a hospital room floor. Defendants-appellees are the Iowa Lutheran Hospital and Dr. Reed, decedent's physician. At the close of plaintiff's case, trial court granted defendants' motion for directed verdict on the ground that no expert testimony was presented regarding the professional standards of care to be exercised by hospitals and physicians. We reverse and remand.

Decedent was admitted into defendant hospital in late 1973 for treatment of various ailments connected with the elderly (she was 83 years old at the time). She complained of dizziness, weakness and abdominal pain. A series of x-rays were taken following her admission revealing bone degeneration in the hip and pelvic area. Defendant Reed (who had been her doctor since 1969) directed that decedent was to be given bathroom privileges with help and was to be assisted in walking. No restraints were placed on her and her bed to prohibit movement.

On November 24, 1973, decedent was found on the floor of her room--she had fallen while returning unattended from the bathroom. Subsequent to the fall, bruises were noted in decedent's buttock area. She screamed in complaint when moved and became increasingly incoherent. The behavioral change was known to the doctor and caused the family great concern. Six days later, Dr. Reed ordered x-rays and discovered the injuries to the pelvis sustained from the fall. More than one month later, x-rays were taken of the chest area and revealed a broken rib. Neither of these injuries was present on her admittance.

In this action, both defendants Reed and hospital are alleged to have been negligent in failing to exercise reasonable care in supervising decedent to prevent her from leaving her bed and her room. In addition, defendant Reed is alleged to have been negligent in failing to instruct the hospital with respect to potential falls by decedent and (subsequent to the injury) in failing to discover the fractures within a reasonable period of time. Res ipsa loquitur was also alleged, but plaintiff dropped that contention at trial. At trial, plaintiff introduced no expert testimony of the professional standards

of care exercised by hospitals and doctors. For this reason, defendants moved for and were granted a directed verdict at the close of plaintiff's case. Plaintiff appeals from the resulting adverse judgment.

I. "In considering the propriety of a directed verdict for defendants we must give plaintiffs' evidence the most favorable construction it will reasonably bear." Grosjean v. Spencer, 258 Iowa 685, 688, 140 N.W.2d 139 (1966). All parties agree that the general rule requires expert testimony of standards of professional care before plaintiff can recover against either a hospital or a doctor. The dispute in the case centers around the recognized exceptions to the general rule.

Regarding hospitals, the general rule was stated more specifically in Kastler v. Iowa Methodist Hospital, 193 N.W.2d 98 (Iowa 1971), as follows:

> With respect to professional activities of hospitals, we adhere to our rule that the standard is the care "which obtains in hospitals generally under similar circumstances." * * * [H]owever, with respect to nonmedical, administrative, ministerial or routine care, we adopt the rule that the standard is such reasonable care for patients as their known mental and physical condition may require.

193 N.W.2d at 101-02 (citations omitted). Therefore, expert testimony is not required as to hospital standard of care when nonmedical, administrative, ministerial or routine care is involved. We must conclude that the claim relating to the hospital's alleged failure to supervise decedent falls within this recognized exception. We further conclude that given the orders of Dr. Reed and the evidence of decedent's activities while in the hospital, a jury issue was generated as to the hospital's negligence on the claimed lack of supervision. As recognized in Iowa R. App. P. 14(f)(10), it is only in exceptional cases where such determinations can be resolved as a matter of law. This is not such a case.

II. This case is also appropriate for applying the exceptions to the expert testimony rule pertaining to doctors. The rule was stated in Stickleman v. Synhorst, 243 Iowa 872, 52 N.W.2d 504 (1952):

> Two exceptions to the rule requiring expert evidence in actions of this kind are applicable here. Where a physician's lack of care is so obvious as to be within the comprehension of laymen and to require only common knowledge and experience to understand expert testimony is not necessary. Also, where a physician injures a part of the body not under treatment expert evidence is not always required. (citations omitted)

243 Iowa at 879. See also Grosjean, 258 Iowa at 692; Huckroyd v. Bunten, 237 N.W.2d 808, 812 (Iowa 1976). The second exception is not applicable here; there is no claim that Dr. Reed injured a part of decedent's body not under treatment.

The plaintiffs allege the doctor was negligent by his failing to instruct staff to restrict and supervise decedent's movements before the fall. We believe this to be a matter that requires expert testimony.

Plaintiffs also allege the doctor was negligent by his failure to discover the fractures within a reasonable time. This failure was within the comprehension of laymen jurors. Jurors appreciate that advancing years increase the possibility of bone injury even in simple falls. Jurors understand symptoms of dizziness and weakness increase the possibility of a fall. A patient is entitled to a thorough and careful examination with methods of diagnosis as are usually practiced under the circumstances. Wheatley v. Heideman, 251 Iowa 695, 704, 102 N.W.2d 343, 349 (1960). For many years our courts have recognized x-ray as a valuable, necessary aid in diagnosis of bone injuries and a matter of common knowledge. Wilson v. Corbin, 241 Iowa 593, 600, 41 N.W.2d 702, 706 (1950). A jury question was generated concerning the appropriateness or negligence, under the circumstances, of the doctor's actions in waiting several days before ordering x-ray assistance in diagnosis.

The judgments in favor of the defendants, Iowa Lutheran Hospital and Dr. Robert J. Reed, are therefore reversed and the case remanded for new trial.

REVERSED AND REMANDED.