

When a Nursing Home caregiver turns a resident on their side in bed, they must not to let the resident fall out the other side of the bed.

A Nursing home corporation
must prevent avoidable skin wounds
and prevent skin wounds
from becoming infected.

A Nursing Home Corporation must
put resident safety ahead of
its own profit.

A Nursing Home must ensure that an incontinent resident receives appropriate treatment and services to prevent urinary tract infections.

“On behalf of my clients, Kindred Healthcare Operating, Inc., and Kindred Transitional Care & Rehabilitation - Stratford, we accept responsibility for the fall. We accept responsibility that the fall should not have happened. We accept responsibility that because of the fall, Mrs. Maxim sustained a right femur fracture. We accept responsibility that because of that she had pain and suffering. . . . We have accepted responsibility that it did impact her life for a little over two months.”

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Date: Jan 23, 2014

Kindred Transitional Care and Rehabilitation-Stratford - 0875

Facility # OH03219

Time: 11:20:08 ET

Progress Notes

User: Bobble Jo Raine

Patient Name: Leona Maxim (031221) Location: Admission Date: 6/10/2013

Note Text: Mobile X into facility to complete detailed x-ray of right femur & right knee. Spoka with Marilyn Mazzone (Daughter), she stated that the family wants Leona Maxim transferred to Hillcrest Hospital Orthopedics Surgery for f/u of x-ray results.

Author: Patrice Jones - LPN [ESOF]

Signature:

6/3/2013 18:34 Type: Health Status Note

Note Text: xray ordered for today and films will be sent in the am 6-4-13.

Author: Crystal Brown - Licensed Practical Nurse/Licensed Vocational Nurse [ESOF]

Signature:

6/3/2013 18:34 Type: Infection Note

Note Text: res cont on abx therapy, res remains afebrile, VS WNL, no s/s of adverse reactions, meds and tx given, res up in w/c, medicated x 3 for pain this shift will con to mont res

Author: Crystal Brown - Licensed Practical Nurse/Licensed Vocational Nurse [ESOF]

Signature:

6/3/2013 18:03 Type: Health Status Note

Note Text:

Note Text : Spoke to family about X-Ray results and they stated they do not want resident sent to the hospital. They requested that the resident stay in the facility and follow up with the ortho doctor. Dr P.Umapathy aware of family request. Dr Shroyer notified and new order for detailed X-Ray of right knee and femur and to have films sent to facility and he will follow up this week with the resident. Resident denies any pain or discomfort at this time.

Author: Jose Giner - RN [ESOF]

Signature:

6/3/2013 17:45 Type: Health Status Note

Note Text: n.o.: two person assist for all care given in bed that requires position change of resident, family aware of new orders at this time.

Author: Crystal Brown - Licensed Practical Nurse/Licensed Vocational Nurse [ESOF]

Signature:

6/3/2013 15:33 Type: Health Status Note

Note Text: CM Note: The daughter Mariyn Mazzone did not come this weekend to sign the cut letter for therapy services. A call was placed to the daughter and the letter will be mailed out for signature.

Author: Annette Potokar-Beasley - Registered Nurse [ESOF]

Signature:

Late Entry

6/3/2013 14:20 Type: Health Status Note

Note Text:

Note Text : Met with resident to discuss what happened earlier in the day. Resident stated she was on her side and her legs started to slide out of the bed and the STNA came over to the other side of the bed and assisted her to the floor because she was sliding out of the bed.

Author: Jose Giner - RN [ESOF]

Signature:

6/3/2013 12:53 Type: Incident Note

Note Text:

Note Text : At 10:15 am, this nurse was notified that while res received am care, when turned res begun to slide out of bed, res stna stated she lowered res to floor, res did not hit her head, res did hit her knee, res c/o of pain to right knee, this nurse assessed res VS WNL, family notified and Dr notified w/ n.o.: for xray of right knee, will cont to mont res

Author: Crystal Brown - Licensed Practical Nurse/Licensed Vocational Nurse [ESOF]

Signature:

Late Entry

6/3/2013 10:15 Type: Evaluation Summary

Note Text: Post fall initial review completed. See review for details.

Author: Jose Giner - RN [ESOF]

Signature:

6/3/2013 08:53 Type: Health Status Note

Note Text: daughter aware of new order to d/c tx to breast

Author: Jose Giner - RN [ESOF]

Signature:

6/2/2013 18:22 Type: Health Status Note

Note Text: Meds given threw PEG per order, PEG placement verified, 0 residual noted. Daughter in today. Will monitor.

Author: Christina Linamen - Licensed Practical Nurse/Licensed Vocational Nurse [ESOF]

Signature:

Claim:

“What didn't happen was repeatedly violating the requirement of two-person assist. He showed you a document that . . . talked about bed mobility in general, not bed mobility a.m. care requiring two-person assist when there was a change of position in bed.”



Claim:

“What didn't happen was repeatedly violating the requirement of two-person assist. He showed you a document that . . . talked about bed mobility in general, not bed mobility a.m. care requiring two-person assist when there was a change of position in bed.”

Evidence: Not Following Order

Q. Are you familiar with what a.m. care is?

A. Yes.

* * *

Q. And that's something primarily aides were responsible for doing, fair?

A. Yes.

Q. And a.m. care is something that requires bed mobility, that repositioning in bed, correct?

A. Yes.

(Boyer, 27:1-13)

HEALTH RECORD

		Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu
Order Date: 03/29/2011 TWO PERSON ASSIST FOR ALL CARE GIVEN IN BED THAT REQUIRES POSITION CHANGE OF RESIDENT	7AM-7PM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	7PM-7AM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Order Date: 04/16/2012 BI-WEEKLY SHOWER DAYS. NOTIFY CHARGE NURSE OF IRREGULARITIES TUE/FRI (3-11)	SHIFT	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
	3-11	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Order Date: 04/16/2012 WEEKLY SKIN ASSESSMENTS ON FRIDAYS (3-11)	SHIFT	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
	3-11	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Order Date: 08/27/2009 WHEELCHAIR WITH BILATERAL FOOTRESTS	INFO	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
	ONLY	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
	DO NOT	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
	CHART	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Order Date: 10/23/2010 TED HOSE ON AM AND OFF PM	ON AM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
	OFF PM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Order Date: 10/24/2011 LEFT LATERAL SUPPORT TO WHEELCHAIR TO PREVENT LEANING	INFO	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
	ONLY	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
	DO NOT	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
	CHART	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Order Date: 08/27/2009 DYCEM TO WHEELCHAIR CUSHION	7AM-7PM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
	7PM-7AM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Order Date: 11/28/2011 MECHANICAL LIFT FOR ALL TRANSFERS	7AM-7PM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
	7PM-7AM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	

INSTRUCTIONS (SEE REVERSE SIDE)	HOUR	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
	CHARTING FROM: 07/01/2012	THRU: 07/31/2012														COMPLETE ENTRIES CHECKED BY:											TITLE:					

DIAGNOSIS URIN TRACT INFECTION NOS; VITAMIN D DEFICIENCY NOS; HYPERLIPIDEMIA NEC/NOS; MENTAL DISOR NEC OTH DIS; DEPRESSIVE DISORDER NEC; PARALYSIS AGITANS; EPILEP NOS W/O INTR EPIL; HYPERTENSION NOS; CHR AIRWAY OBSTRUCT NEC; FOOD/VOMIT PNEUMONITIS; ESOPHAGEAL REFLUX; IDIOPATHIC SCOLIOSIS; ANOREXIA; DYSPHAGIA NOS; HX TIA/STROKE W/O RESID; ATTEN TO GASTROSTOMY															ALLERGIES PCN, CEPHALOSPORINS, HYDANTOINS, PCN V POTASSIUM, PRIMAXIN, EFFEXOR, EXELON UD, CEPHAMYCIN															NURSES ALERT Aspiration Alert, Crush Meds, Fall Precautions, FULL CODE, NPO									
MORE																																							

PHYSICIAN UMAPATHY, PRIYADHARSHINI	TELEPHONE NO. (440)232-5215	ALT. PHYS.	ALT. TELEPHONE
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RESIDENT NAME MAXIM, LEONA	MED REC NO. 31221	NURSE STA AB	ROOM/BD 0059A	FACILITY Stratford Commons SNF	PAGE 3
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Month: July

Year: 2012

LATE LOSS ADL FLOW SHEET

SELF-PERFORMANCE (Code 0, 1, 2, 3, 4, or 8)	SUPPORT (Code 0, 1, 2, 3 or 8)
<p>1. ADL SELF-PERFORMANCE: Code for resident's performance over all shifts – not including setup. If the ADL activity occurred 3 or more times at various levels of assistance, code the most dependent – except for total dependence, which requires full staff performance every time</p> <p>Activity Occurred 3 or More Times</p> <p>0. Independent – no help or staff oversight at any time</p> <p>1. Supervision – oversight, encouragement or cueing</p> <p>2. Limited assistance – resident highly involved in activity; staff provide guided maneuvering of limbs or other non-weight-bearing assistance</p> <p>3. Extensive assistance – resident involved in activity, staff provide weight-bearing support</p> <p>4. Total dependence – full staff performance every time during entire shift</p> <p>8. Activity did not occur – activity (or any part of the ADL) was not performed by resident or staff at all during entire shift</p>	<p>2. ADL SUPPORT PROVIDED: Code for most support provided over all shifts; code regardless of resident's self-performance classification</p> <p>0. No setup or physical help from staff</p> <p>1. Setup help only</p> <p>2. One person physical assist</p> <p>3. Two+ persons physical assist</p> <p>8. ADL activity itself did not occur during entire shift</p>

Record Self Performance in Top of Box
Record Support Provided in Lower Box

DIRECTIONS: Document the appropriate response for each section per shift. 12 hour shifts do not use shaded middle box.

		Day	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
BED MOBILITY	Day	4	2	4	0	4	2	4	0	4	2	4	0	4	2	4	0
	Evening	4	2	4	0	4	2	4	0	4	2	4	0	4	2	4	0
	NOC	3	2	3	2	3	2	3	2	3	2	3	2	3	2	3	2
TRANSFERS	Day	4	3	4	3	4	3	4	3	4	3	4	3	4	3	4	3
	Evening	4	3	4	3	4	3	4	3	4	3	4	3	4	3	4	3
	NOC	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8
EATING	Day	4	2	4	2	4	2	4	2	4	2	4	2	4	2	4	2
	Evening	4	2	4	2	4	2	4	2	4	2	4	2	4	2	4	2
	NOC	8	2	4	2	4	2	4	2	4	2	4	2	4	2	4	2
TOILET USE	Day	4	3	4	3	4	3	4	3	4	3	4	3	4	3	4	3
	Evening	4	2	4	2	4	2	4	2	4	2	4	2	4	2	4	2
	NOC	3	2	4	2	4	2	4	2	4	2	4	2	4	2	4	2
CNA INITIALS	Initials	Day		LD	LD	LD		LD	LD	LD		LD	LD	LD	LD		
	Initials	Evening		LD	KE		BH	BH	pm		BH	MG	OS			BH	of
	Initials	NOC	cm	UH	UH	cm	OB	JL	UH	UH	cm	UH	UH	UH	UH	JL	cm

Initial	Print Name	Initial	Print Name	Initial	Print Name	Initial	Print Name
LH	LATERAL LAW-NORTON	SR	SHIRLEY REED				
OB	Debbie Black						
ZI	Zigler, Tuff						

NAME-Last: Maxim First: LEONA Middle: Attending Physician: Record No.: Room/Bed: 59

Claim:

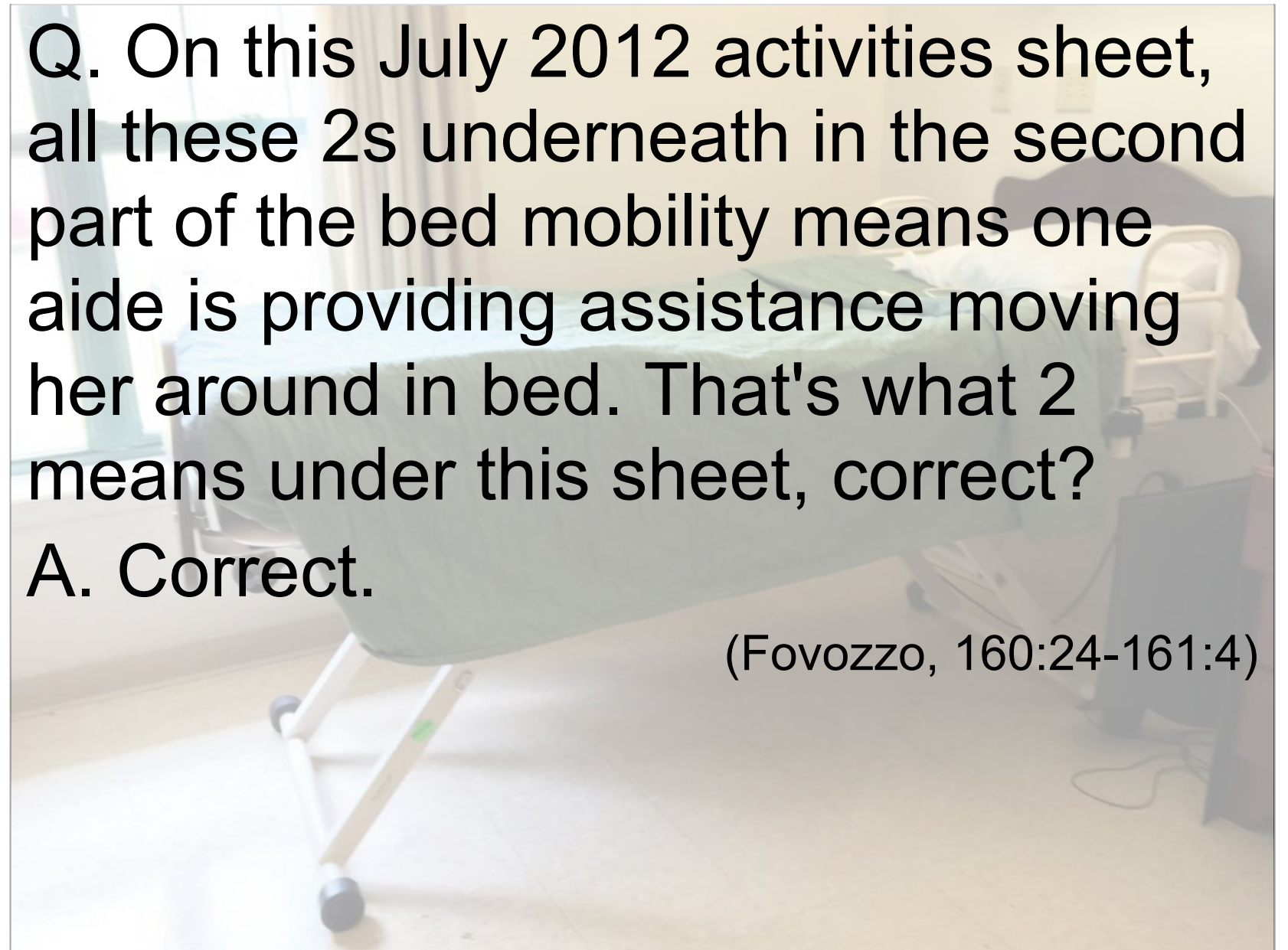
“What didn't happen was repeatedly violating the requirement of two-person assist. He showed you a document that . . . talked about bed mobility in general, not bed mobility a.m. care requiring two-person assist when there was a change of position in bed.”

Evidence: Not Following Order

Q. On this July 2012 activities sheet, all these 2s underneath in the second part of the bed mobility means one aide is providing assistance moving her around in bed. That's what 2 means under this sheet, correct?

A. Correct.

(Fovozzo, 160:24-161:4)



“On behalf of my clients, Kindred Healthcare Operating, Inc., and Kindred Transitional Care & Rehabilitation - Stratford, we accept responsibility for the fall. We accept responsibility that the fall should not have happened. **We accept responsibility that because of the fall, Mrs. Maxim sustained a right femur fracture.** We accept responsibility that because of that she had pain and suffering. . . . We have accepted responsibility that it did impact her life for a little over two months.”

Claim:

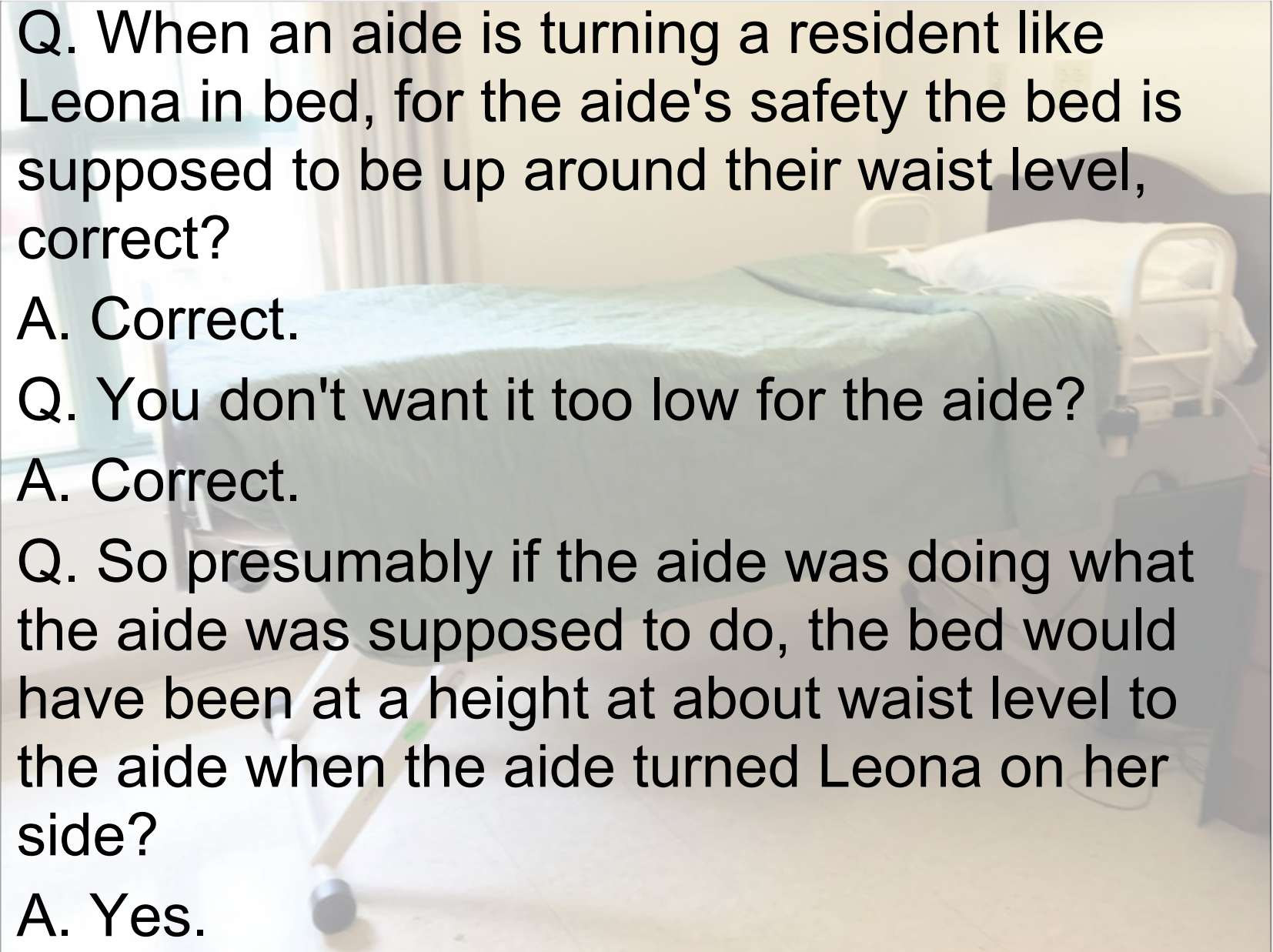
“Further, the bed would not be that high during a.m. care. It would be lower than that. So it wasn't that great distance that you saw. It would be a much lower distance.”



Evidence: Waist Height

Claim:

“Further, the bed would not be that high during a.m. care. It would be lower than that. So it wasn't that great distance that you saw. It would be a much lower distance.”

A photograph of a hospital room. In the center is a hospital bed with a white sheet and a green blanket. To the left of the bed is a white chair with a green seat. The room has light-colored walls and a window with blinds in the background.

Q. When an aide is turning a resident like Leona in bed, for the aide's safety the bed is supposed to be up around their waist level, correct?

A. Correct.

Q. You don't want it too low for the aide?

A. Correct.

Q. So presumably if the aide was doing what the aide was supposed to do, the bed would have been at a height at about waist level to the aide when the aide turned Leona on her side?

A. Yes.

(Boyer 12:20-13:5)

Claim:

“What's also not true? She was not rolled out of bed. I showed you that note already. She was not rolled out of bed.”



Claim:

“What's also not true? She was not rolled out of bed. I showed you that note already. She was not rolled out of bed.”

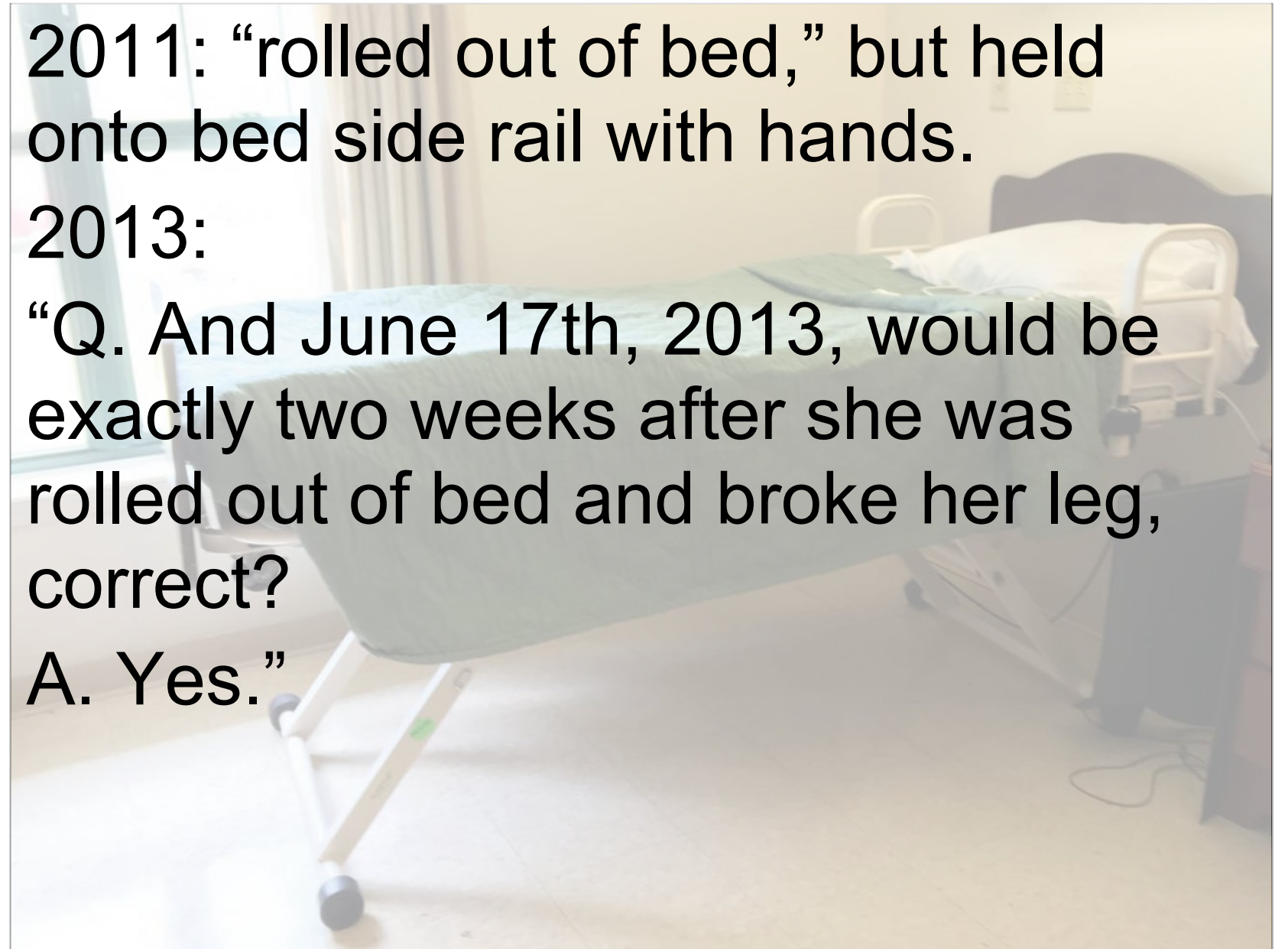
Evidence: Rolled Out of Bed

2011: “rolled out of bed,” but held onto bed side rail with hands.

2013:

“Q. And June 17th, 2013, would be exactly two weeks after she was rolled out of bed and broke her leg, correct?”

A. Yes.”



(Boyer 50:10-13)

Claim:

“What's also not true? She was not rolled out of bed. I showed you that note already. She was not rolled out of bed.”

Evidence: Rolled Out of Bed

Q. . . . Where it says, STNA came over to the other side of the bed and assisted her to the floor, can we agree . . . your interpretation of that would be that Leona was going out the other side of the bed and the nursing aide had to come around, correct?

A. Yes.

Q. Again, at least according to Jose Giner's notes, this is not a case where the aide was turning the resident towards her or him and lowered the resident to the floor on that side of the bed, correct?

A. Correct.

(Boyer, 42:3-16)

“On behalf of my clients, Kindred Healthcare Operating, Inc., and Kindred Transitional Care & Rehabilitation - Stratford, we accept responsibility for the fall. We accept responsibility that the fall should not have happened. We accept responsibility that because of the fall, Mrs. Maxim sustained a right femur fracture. **We accept responsibility that because of that she had pain and suffering. . . . We have accepted responsibility that it did impact her life for a little over two months.**”

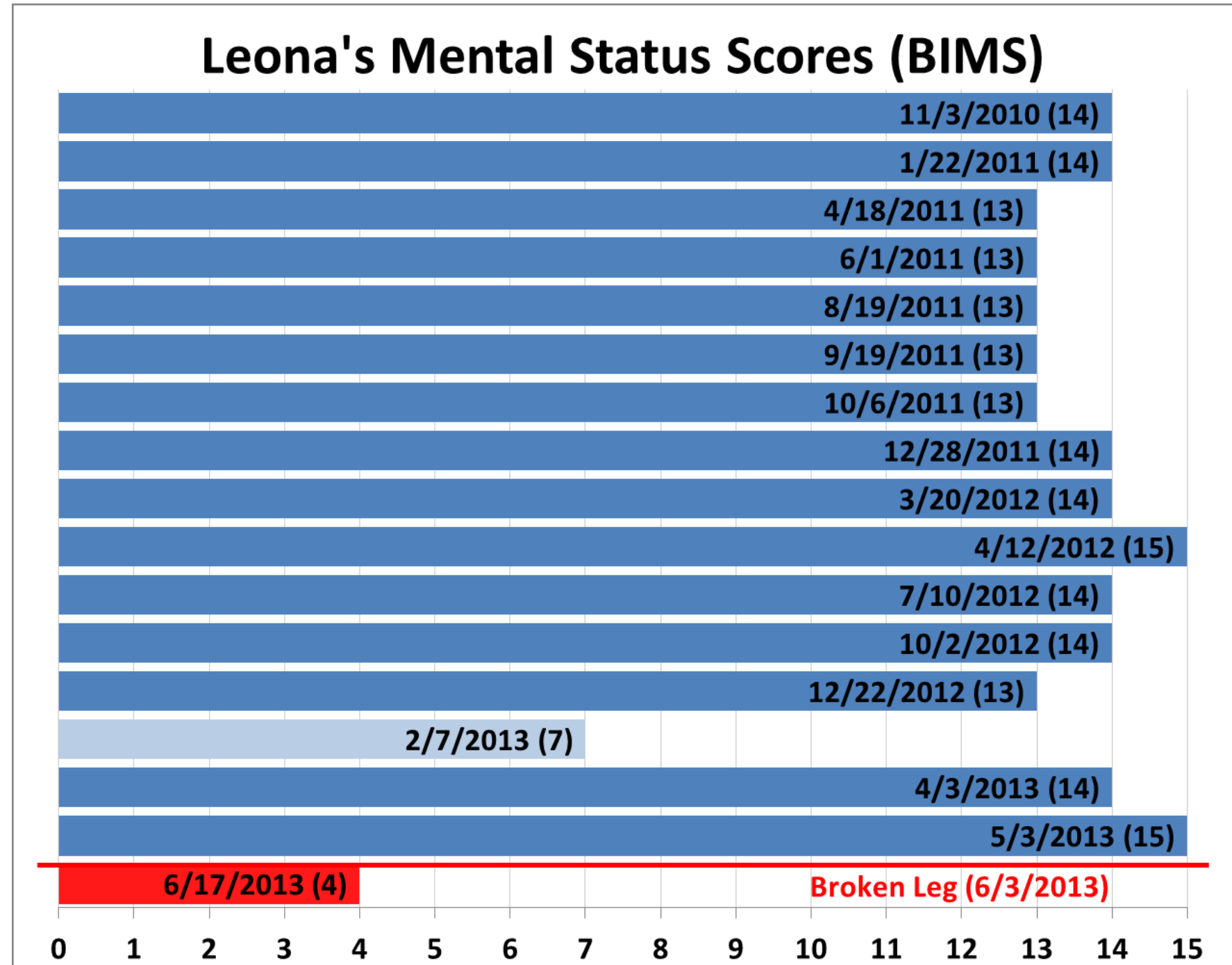
Claim:

“ You can see this going back February 14th of 2013 . . . she scored a 7 on her BIMS assessment. . . that means she had significant cognitive impairment at least at the time this assessment was done. What you really see with her cognitive impairment it wasn't this was her level at all times. She would go up and she would go down. She would wax and she would wane.”

Evidence: Cognitively Intact

Claim:

“ You can see this going back February 14th of 2013 . . . she scored a 7 on her BIMS assessment. . . that means she had significant cognitive impairment at least at the time this assessment was done. What you really see with her cognitive impairment it wasn't this was her level at all times. She would go up and she would go down. She would wax and she would wane.”



Claim:

“ You can see this going back February 14th of 2013 . . . she scored a 7 on her BIMS assessment. . . that means she had significant cognitive impairment at least at the time this assessment was done. What you really see with her cognitive impairment it wasn't this was her level at all times. She would go up and she would go down. She would wax and she would wane.”

Evidence: Cognitively Intact

Q. ... If someone told the jury that prior to her broken leg Leona was somebody who would go in and out of lucidity, that sometimes she was not cognitively intact for periods, she was just waxing and waning day-to-day, can we agree that's not your experience with her?

A. That is not my experience.

Q. You would disagree with that, correct?

A. From my experience, yes.

Q. . . . you're someone who enjoyed spending time with Leona?

A. Yes.

(Mandel, 53:1-54:11)

Claim:

“ You can see this going back February 14th of 2013 . . . she scored a 7 on her BIMS assessment. . . that means she had significant cognitive impairment at least at the time this assessment was done. What you really see with her cognitive impairment it wasn't this was her level at all times. She would go up and she would go down. She would wax and she would wane.”

Evidence: Cognitively Intact

Q. And prior to this June 3rd fall can we agree that was something she was capable of doing and enjoying? She had her wits about her to enjoy those activities?

A. Yes.

Q. Can we agree Leona, again, prior to the fall, Leona wasn't someone you would describe as waxing in and out of lucidity? It wasn't like there were periods of time she was out of it for extended periods of time?

A. No.

Claim:

“ You can see this going back February 14th of 2013 . . . she scored a 7 on her BIMS assessment. . . that means she had significant cognitive impairment at least at the time this assessment was done. What you really see with her cognitive impairment it wasn't this was her level at all times. She would go up and she would go down. She would wax and she would wane.”

Evidence: Cognitively Intact

- Peggy Delbrocco
- Marilyn Mazzone
- Christine Guest
- Jackie Angelo
- Mark Maxim

Claim:

“ You can see this going back February 14th of 2013 . . . she scored a 7 on her BIMS assessment. . . that means she had significant cognitive impairment at least at the time this assessment was done. What you really see with her cognitive impairment it wasn't this was her level at all times. She would go up and she would go down. She would wax and she would wane.”

Evidence: Cognitively Intact

Schlaudecker:

Q. You can agree prior to the June 3rd, 2013, broken leg Leona Maxim was alert and oriented in general, correct?

A. In general, yes.

Q. She knew who she was?

A. Yes.

Q. She knew where she was?

A. Yes.

Claim:

“You'll realize when that blister went away then there was this wound, the depth of that wound, how far down it went, the deepest it ever got was .5 millimeters. But it was generally around .2 to .3. ***That's almost like shaving and nicking your skin how deep the wound was.***”

A Narcissist's Prayer

That didn't happen.

And if it did, it wasn't that bad.

And if it was, that's not a big deal.

And if it is, that's not my fault.

And if it was . . .

You deserved it.

PROXIMATE CAUSE

A party who seeks to recover compensation for damages and injuries must prove not only that the other party was negligent, but also that such negligence was a proximate cause of the damages and injuries.

Proximate cause is an act or failure to act that in the natural and continuous sequence directly produced the injury and loss and without which injury and loss would not have occurred.

Dr. Gilson, Medical Examiner:

“[B]y law the only people who can certify deaths related to trauma are in my office. So accident, homicide, suicide, those deaths have to be certified by a medical examiner.”

[Gilson 87:7-10]

Reg. Dist. No. 18
Primary Reg. Dist. No. 1823
Registrar's No. 2013-008877

Ohio Department of Health
VITAL STATISTICS
CERTIFICATE OF DEATH
Type or print in permanent blue or black ink

State File No. 2013074568

DECEDENT

1. Decedent's Legal Name (Include AKA's if any) (First Middle, LAST, suffix) LEONA V MAXIM				2. Sex Female		3. Date of Death (Mo/Day/Year) August 23, 2013			
4. Social Security Number 289-34-7169		5a. Age (Years) 74	5b. Under 1 Year Months	5c. Under 1 day Hours	5d. Minutes	6. Date of Birth (Mo/Day/Year) July 09, 1939		7. Birthplace (City and State or Foreign Country) CLEVELAND, OHIO	
8a. Residence State OHIO			8b. County CUYAHOGA			8c. City or Town ROCKY RIVER			
8d. Street and Number 22369 Blossom Drive				8e. Apt. No.		8f. Zipcode 44116		8g. Inside City Limits? Yes	
9. Ever in US Armed Forces? No		10. Marital Status at Time of Death Widowed (and not remarried)			11. Surviving Spouse's Name (If wife, give name prior to first marriage)				
12. Decedent's Education ASSOCIATE DEGREE (E.G., AA, AS)			13. Decedent of Hispanic Origin No			14. Decedent's Race White			
15. Father's Name LEONARD SZPLET				16. Mother's Name (prior to first marriage) HARRIET BIENKOWSKI					
17a. Informant's Name CHRIS GUEST				17b. Relationship to Decedent Daughter		17c. Mailing Address (Street and Number, City, State, Zip Code) 4043 Giles Road MORELAND HILLS, OHIO 44022			
18a. Place of Death Hospital - Inpatient				18b. Facility Name (If not institution, give street & number) AHUJA MEDICAL CENTER		18c. City or Town, State and Zip Code BEACHWOOD, OH 44122		18d. County of Death CUYAHOGA	

DISPOSITION

19. Signature of Funeral Service Licensee or Other Agent <i>[Signature]</i>		20. License Number (of licensee) 008104		21. Name and Complete Address of Funeral Facility TABONE KOMOROWSKI FUNERAL HOME 33650 SOLON RD SOLON, OH 44139			
22a. Method of Disposition Cremation		22b. Date of Disposition August 27, 2013		22c. Place of Disposition (Name of Cemetery, Crematory, or other place) HILLCREST CREMATORY			
22d. Location (City/Town and State) BEDFORD HEIGHTS, OH		22e. Location (City/Town and State) BEDFORD HEIGHTS, OH					

REGISTRAR

23. Registrar's Signature <i>Morry A. Blech</i>		24. Date Filed SEP 05 2013			
25a. Name of Person Issuing Burial Permit GILSON, THOMAS P		25b. District No. 1800		25c. Date Burial Permit Issued August 26, 2013	

CERTIFIER

26a. Certifier (Check only one) <input type="checkbox"/> Certifying Physician To the best of my knowledge, death occurred at the time, date, and place; and due to the cause(s) and manner stated. <input checked="" type="checkbox"/> Coroner On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, and place; and due to the cause(s) and manner stated.		26b. Time of Death 0429		26c. Date Pronounced Dead (Mo/Day/Year) 08/23/2013		26d. Was case referred to coroner? Yes	
26e. Signature and Title of Certifier <i>[Signature]</i> M.D., M.E.		26f. License number 35.062126		26g. Date Signed August 26, 2013			

CAUSE OF DEATH

27. Name (Last, First, Middle) and Address of Person who Completed Cause of Death GILSON, THOMAS P, 11001 CEDAR AVENUE CLEVELAND, OH 44106							
28. Part I. Enter the disease, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line. Type or print in permanent blue or black ink.							
Immediate Cause (Final disease or condition resulting in death) a. Right Femur Fracture With Complications.		Approximate Interval Between Onset and Death UNKNOWN					
Sequentially list conditions, if any, leading to immediate cause. b. Due to (or as Consequence of)							
Enter Underlying Cause (Disease or injury that initiated events resulting in a death) c. Due to (or as Consequence of)							
d. Due to (or as Consequence of)							
Part II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I. Atherosclerotic Cardiovascular Disease. Chronic Obstructive Pulmonary Disease.							
29a. Was An Autopsy Performed? No		29b. Were Autopsy Findings Available Prior To Completion Of Cause of Death? Not Applicable					
30. Did Tobacco Use Contribute to Death? Unknown		31. If Female, Pregnancy Status UNKNOWN		32. Manner of Death Accident			
33a. Date of Injury (Mo/Day/Year) June 03, 2013		33b. Time of Injury 99:99	33c. Place of Injury (e.g., Decedent's home, construction site, restaurant, wooded area) In Stratford Commons		33d. Injury at Work? No		
33e. Location of Injury (Street and Number or Rural Route Number, City or Town, State) 7000 Cochran Road, SOLON, OHIO				33f. Describe How Injury Occurred: Fell to floor.		33g. If Transportation Injury, S	

HEA 2724 Rev. 01/07

I HEREBY CERTIFY THAT THIS DOCUMENT IS AN EXACT COPY OF THE RECORD ON FILE WITH THE OHIO DEPARTMENT OF HEALTH.

SP-513003171

Morry A. Blech
MORRY A. BLECH, LOCAL REGISTRAR
OFFICE OF VITAL STATISTICS
WITNESSED BY SIGNATURE & SEAL

PLTF EX01 - 000001
REV. 6/2009

Cause Of Death

Medical Examiner's Finding

The Cuyahoga County Medical Examiner's factual determinations concerning the manner, mode and cause of death, as expressed in the Medical Examiner's Verdict and the Death Certificate, create a rebuttable presumption concerning such facts in the absence of competent, credible evidence to the contrary.

“Rebuttable” means competent and credible evidence of equal or greater weight.

Dr. Gilson, Medical Examiner:

“Healing in general, like healing a broken bone, is going to put a big stress on the body because we have to take energy to heal that bone. It's documented that people who have stressors on their body, be it a fracture or other things, are going to have decreased immunity to infection, so it puts them at increased risk to develop infections especially if they started out somewhat marginal or compromised at the time they had that broken bone.” [Gilson 98:8-97:11]

Medical Examiner (Dr. Gilson)

“When I saw her, that fracture was not showing good signs of healing. So she's still devoting energy to healing that fracture. She had to be transfused after that fracture, which is another stress that her body has to compensate for blood loss. And people who have those kind of stresses have a significant increased risk of developing things like pneumonia, which it sounds like she had, urinary tract infection, and sepsis, which sounds like she had, when she was admitted to Ahuja. ***I can't take that femur fracture out of the mix in any way.***”

Dr. Coleman Seskind

- Common understanding broken leg leading to death
- Agreed with Dr. Gilson, Ahuja
- Never healed
- Wound infection most likely
- Either way, fracture caused death

Legal Medical Record Part 1 of 3 Demographics, Orders, Results and Clindoc

Parameters: From Date: 2013/08/15 To Date: 2013/08/23
 Visit ID: 33886603
 Include Documentation: Yes Include Results: Yes
 Include Orders: Yes Include General Scope Health Issues from ALL visits: Yes

Report Definition: This report is part 1 of 3 that makes up the complete 'Legal Medical Record'. It consists of patient demographics, orders, results and clindoc.

Patient Name: MAXIM, LEONA V	MRN-Enc#: 01660129-33886603	Age (DOB): 74y(09-Jul-1939)
Discharge Location: Ahuja A 7th Fir Rm 701	Admit Date: 8/15/2013 12:04:00 AM	Gender: Female
Attending Physician: Bindra, Akhil Pratap	Patient Type: Inpatient/Acute Care	Service: Med Surg
Discharge Date: 8/23/2013 7:00:00 AM		

realization that she may not survive. However, they did not believe ongoing aggressive measures was consistent with her previously expressed wishes, nor was it consistent with what they wished for their mother.

The patient was extubated on August 21, 2013. She was ultimately moved to the regular medical floor with comfort measures only. She died at 4:29 a.m. on August 23, 2013. The patient's family was aware of her death at that time and had been made aware of her impending death before that. Her children were with her for a large amount of the time since her extubation on August 21, 2013.

- DISCHARGE DIAGNOSES:**
1. Acute respiratory failure secondary to healthcare-acquired pneumonia.
 2. Sepsis secondary to healthcare-acquired pneumonia.
 3. Deconditioning. The patient was bed bound prior to her arrival at Ahuja Medical Center.

Harish Kakarala, MD

DD: 09/01/2013 00:36 AM EST
 IT: 09/01/2013 11:48 PM EST
 DICTATION NUMBER: 1359551
 SPHERIS JOB NUMBER: 67335820

CC:
 Priyadharshini Umapathy, MD
 Akhil Pratap Bindra, MD

Electronically Signed by Dr: Harish Kakarala 09/04/2013 12:07:26 PM
 Interpreting Physician ID: 57825

[Discharge Summary - Ahuja] -- End of Document

23-Aug-2013 04:33 Preliminary Cause of Death Akuete, Kwel (MD)

Schlaudecker:

- Hip Fractures can increase risk of death.
- Reduction in an elderly's person mobility or ability to get around could be a major cause of secondary injuries such as ***pneumonias*** and ***urinary tract infections*** [15:24-16:3]
- “Deconditioning from significant injury” can make more sedentary, less energy on day-to-day basis, overall decrease in mood, increase in other illnesses no longer capable of fighting off, like pneumonia, increased risk of urinary tract infections, systemic infection or sepsis.

Schlaudecker:

Q. And you understand that death as a result of a trauma like a broken leg in an older person, that's not always immediate, right? It's not like you die -- you have to die within a few days of the injury, right?

A. Yes, I understand that.

Q. Okay. That can prolong over a period of time, correct?

A. Yes.

Q. And you're certainly familiar with the idea that someone like Leona having a broken leg, if it did lead to decline and death, that could take months, correct?

A. It could.

[18:05-18]

Schlaudecker:

Q. And you agree that the brace that Leona had to wear as a result of her broken leg caused her pressure wounds, correct?

A. Yes.

Q. You agree there's a second stress or drain on a person's energy having to heal wounds like the ones Leona suffered from, correct?

A. Yes.

Q. And you believe that a person with a broken leg, combined with having open wounds the body is trying to heal, has two burdens that require their body to direct energy to heal it, correct?

A. Added to her other burdens, yes.

[18:24-19:11]

Schlaudecker:

Q. And one of the other risks of not keeping that brace in position, and specifically not following the doctor's order about it being as high as possible and staying in position, is it can allow the broken bone itself to flex or bend, right?

A. Well, if it's not immobilized that makes sense.

Q. And, in fairness, I know you're not an orthopedic doctor, but in caring for people who suffer these types of injuries, are you aware of the fact that if that bone's allowed to flex or move it can impair the bone's ability to heal?

A. That makes sense, yes.

[32:04-16]

Schlaudecker:

Q. Did Leona's bone ever heal in the 11 weeks between her break and her death?

A. I don't recall.

Q. Don't you think that might be important to understanding if her broken leg is related to her death, whether she's still under the stress of it healing?

A. It could be important.

[32:17-24]

Schlaudecker:



Schlaudecker:

- Risks of broken leg, wounds, infection, deconditioning
- Broken leg never healed
- Caregiver testimony about decline
- Family testimony about decline
- Issues with brace (assumes “reasonable”)
- Wounds
- Infection



“Silent Aspiration”?

Q. . . . I want you to assume that there's been some question about whether Leona was constantly aspirating every day, silently aspirating fluid into her lungs. That's not something you've ever heard before, is it?

A. Not about Leona, no.

Q. In fact, you expect you would have heard that or seen that in her records when you were consulting as a dietitian for her, correct?

A. Yes.

[Wendy Mendel 46:11-20]

Jury Instruction:

**“As with other witnesses,
on you alone rests the duty of
deciding what weight to give to the
testimony of the experts.”**

Cause Of Death

Medical Examiner's Finding

The Cuyahoga County Medical Examiner's factual determinations concerning the manner, mode and cause of death, as expressed in the Medical Examiner's Verdict and the Death Certificate, create a rebuttable presumption concerning such facts in the absence of competent, credible evidence to the contrary.

“Rebuttable” means competent and credible evidence of equal or greater weight.

FULL MEASURE OF DAMAGES AND INJURIES

If you find that Leona Maxim had a predisposition which made her more susceptible to injury, Defendants are still liable for the actual injury and actual lack of recovery, if any, which Leona Maxim sustained as a direct result of Defendants' negligence.

It is no defense that some other person of greater strength, or constitution, or emotional makeup might have been injured less, or injured differently, or recovered faster or better.

INTERROGATORY NO. 1

Has Plaintiff proven by the greater weight of the evidence that Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, was negligent?

Circle your answer in ink:

Yes

No

Those agreeing should sign their name in ink.

If the answer of six or more jurors to Interrogatory No. 1 is “yes,” move to Interrogatory No. 2.

If the answer of six or more jurors to Interrogatory No. 1 is “no,” sign the General Verdict form in favor of Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford. Move to Interrogatory No. 5.

INTERROGATORY NO. 1

Has Plaintiff proven by the greater weight of the evidence that Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, was negligent?

Circle your answer in ink:

Yes

No

Those agreeing should sign their name in ink.

If the answer of six or more jurors to Interrogatory No. 1 is “yes,” move to Interrogatory No. 2.

If the answer of six or more jurors to Interrogatory No. 1 is “no,” sign the General Verdict form in favor of Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford. Move to Interrogatory No. 5.

INTERROGATORY NO. 2

In what way was Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, negligent?

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<hr/>	<hr/>
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Those agreeing should sign their name in ink. Move to Interrogatory No. 3.

INTERROGATORY NO. 2

In what way was Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, negligent?

Rolled Leona Maxim out of bed.

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Those agreeing should sign their name in ink. Move to Interrogatory No. 3.

INTERROGATORY NO. 2

In what way was Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, negligent?

Rolled Leona Maxim out of bed.
Dropped the two-person assist order.

Those agreeing should sign their name in ink. Move to Interrogatory No. 3.

INTERROGATORY NO. 2

In what way was Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, negligent?

Rolled Leona Maxim out of bed.
Dropped the two-person assist order.
Violated Leona Maxim's Resident Rights,

_____	_____
_____	_____
_____	_____
_____	_____

Those agreeing should sign their name in ink. Move to Interrogatory No. 3.

INTERROGATORY NO. 2

In what way was Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, negligent?

Circle your answers in ink:

- | | | | |
|----|---|-----|----|
| 1. | Rolling Leona Maxim out of bed: | Yes | No |
| 2. | Dropping two-person assist order: | Yes | No |
| 3. | Failing to properly manage Leona Maxim's brace: | Yes | No |
| 4. | Failing to properly monitor Leona Maxim: | Yes | No |
| 5. | Violating Leona Maxim's Resident Rights: | Yes | No |
| 6. | Inadequate staffing: | Yes | No |
| 7. | Other: _____ | | |
| | _____ | | |
| | _____ | | |
| | _____ | | |
| | _____ | | |
| | _____ | | |
| | _____ | | |
| | _____ | | |

Those agreeing should sign their name in ink. Move to Interrogatory No. 3.

INTERROGATORY NO. 2

In what way was Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, negligent?

Circle your answers in ink:

- | | | | |
|----|---|------------|----|
| 1. | Rolling Leona Maxim out of bed: | <u>Yes</u> | No |
| 2. | Dropping two-person assist order: | <u>Yes</u> | No |
| 3. | Failing to properly manage Leona Maxim's brace: | <u>Yes</u> | No |
| 4. | Failing to properly monitor Leona Maxim: | <u>Yes</u> | No |
| 5. | Violating Leona Maxim's Resident Rights: | <u>Yes</u> | No |
| 6. | Inadequate staffing: | <u>Yes</u> | No |
| 7. | Other: _____ | | |
| | _____ | | |
| | _____ | | |
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| | _____ | | |
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| | _____ | | |

Those agreeing should sign their name in ink. Move to Interrogatory No. 3.

INTERROGATORY NO. 3

Do you find by the greater weight of the evidence that Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, directly and proximately cause any injury to Plaintiff's decedent prior to death?

Circle your answer in ink:

Yes

No

Those agreeing should sign their name in ink.

Move to Interrogatory No. 4.

INTERROGATORY NO. 3

Do you find by the greater weight of the evidence that Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, directly and proximately cause any injury to Plaintiff's decedent prior to death?

Circle your answer in ink:

Yes

No

Those agreeing should sign their name in ink.

Move to Interrogatory No. 4.

INTERROGATORY NO. 4

Do you find by the greater weight of the evidence that Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, directly and proximately contributed to cause Decedent's death?

Circle your answer in ink:

Yes

No

Those agreeing should sign their name in ink.

If the answer of six or more jurors to Interrogatory No. 4 is "yes", move to Interrogatory No. 5.

If the answer of six or more jurors to Interrogatory No. 4 is "no" and your answer to Interrogatory No. 3 is also "no," sign the General Verdict form in favor of Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford. Move to Interrogatory No. 5.

INTERROGATORY NO. 4

Do you find by the greater weight of the evidence that Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, directly and proximately contributed to cause Decedent's death?

Circle your answer in ink:

Yes

No

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Those agreeing should sign their name in ink.

If the answer of six or more jurors to Interrogatory No. 4 is "yes", move to Interrogatory No. 5.

If the answer of six or more jurors to Interrogatory No. 4 is "no" and your answer to Interrogatory No. 3 is also "no," sign the General Verdict form in favor of Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford. Move to Interrogatory No. 5.

#875 -Stratford

Staffing Pattern by Floor (using bare minimum staffing at a census of 116)

Beckett	(8hour shifts)	Aides	Nurses
39beds	Day	3	2
	Evening	3	2
	Nights	2	(0) shared with CA
Abbey		Aides	Nurses (12 hour shifts)
66 beds	Days	6	2 6a – 6p
	Evening	5	2 6p – 6a
	Nights	4	
Cambridge		Aides	Nurses (12 hour shifts)
24 beds	Days	2	1 6a -6p
	Evening	2	1 6p – 6a
	Nights	1	
TCU	(8 hour shifts)	Aides	Nurses
24 beds	Days	2	1
	Evening	2	1
	Nights	1	1

Total Aide hours at 7.5 per day = 247.5 + 1 Restorative = 255

Direct Care Nursing Hours = 128



**Much Below
Average**



Below Average



Average



**Above
Average**



**Much Above
Average**



INTERROGATORY NO. 5

Has Plaintiff proven by the greater weight of the evidence that Defendant, Kindred Healthcare Operating, Inc., was negligent?

Circle your answer in ink:

Yes

No

Those agreeing should sign their name in ink.

If the answer of six or more jurors to Interrogatory No. 5 is “yes,” move to Interrogatory No. 6.

If the answer of six or more jurors to Interrogatory No. 5 is “no,” sign the General Verdict form in favor of Defendant, Kindred Healthcare Operating, Inc. If your answer to Interrogatory No. 1 was also “no,” your deliberations are completed. Please notify the Court.

Otherwise, move to Interrogatory No. 9.

INTERROGATORY NO. 5

Has Plaintiff proven by the greater weight of the evidence that Defendant, Kindred Healthcare Operating, Inc., was negligent?

Circle your answer in ink:

Yes

No

_____	_____
_____	_____
_____	_____
_____	_____

Those agreeing should sign their name in ink.

If the answer of six or more jurors to Interrogatory No. 5 is “yes,” move to Interrogatory No. 6.

If the answer of six or more jurors to Interrogatory No. 5 is “no,” sign the General Verdict form in favor of Defendant, Kindred Healthcare Operating, Inc. If your answer to Interrogatory No. 1 was also “no,” your deliberations are completed. Please notify the Court.

Otherwise, move to Interrogatory No. 9.

INTERROGATORY NO. 6

In what way was Defendant, Kindred Healthcare Operating, Inc., negligent?

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Those agreeing should sign their name in ink. Move to Interrogatory No. 7.

INTERROGATORY NO. 6

In what way was Defendant, Kindred Healthcare Operating, Inc., negligent?

Inadequate staffing

_____	_____
_____	_____
_____	_____
_____	_____

Those agreeing should sign their name in ink. Move to Interrogatory No. 7.

INTERROGATORY NO. 6

In what way was Defendant, Kindred Healthcare Operating, Inc., negligent?

Inadequate staffing
Inadequate system for doctor orders

Those agreeing should sign their name in ink. Move to Interrogatory No. 7.

INTERROGATORY NO. 6

In what way was Defendant, Kindred Healthcare Operating, Inc., negligent?

Circle your answer in ink:

- | | | | |
|----|--|-----|----|
| 1. | Inadequate staffing: | Yes | No |
| 2. | Through control of the nursing home for wrongful purpose: | Yes | No |
| 3. | Inadequate systems/policies regarding managing physician orders: | Yes | No |
| 3. | Other: _____ | | |

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Those agreeing should sign their name in ink. Move to Interrogatory No. 7.

INTERROGATORY NO. 6

In what way was Defendant, Kindred Healthcare Operating, Inc., negligent?

Circle your answer in ink:

- | | | | |
|----|--|--------------------------------------|----|
| 1. | Inadequate staffing: | <input checked="" type="radio"/> Yes | No |
| 2. | Through control of the nursing home for wrongful purpose: | <input checked="" type="radio"/> Yes | No |
| 3. | Inadequate systems/policies regarding managing physician orders: | <input checked="" type="radio"/> Yes | No |
| 3. | Other: _____ | | |

_____	_____
_____	_____
_____	_____
_____	_____

Those agreeing should sign their name in ink. Move to Interrogatory No. 7.

INTERROGATORY NO. 7

Do you find by the greater weight of the evidence that Defendant, Kindred Healthcare Operating, Inc., directly and proximately caused any injury to Plaintiff's decedent prior to death?

Circle your answer in ink:

Yes

No

Those agreeing should sign their name in ink.

Move to Interrogatory No. 8.

INTERROGATORY NO. 7

Do you find by the greater weight of the evidence that Defendant, Kindred Healthcare Operating, Inc., directly and proximately caused any injury to Plaintiff's decedent prior to death?

Circle your answer in ink:

Yes

No

Those agreeing should sign their name in ink.

Move to Interrogatory No. 8.

INTERROGATORY NO. 8

Do you find by the greater weight of the evidence that Defendant, Kindred Healthcare Operating, Inc., directly and proximately contributed to caused Decedent's death?

Circle your answer in ink:

Yes

No

Those agreeing should sign their name in ink.

If the answer of six or more jurors to Interrogatory No. 8 is "yes", move to Interrogatory No. 9.

If the answer of six or more jurors to Interrogatory No. 8 is "no" and your answer to Interrogatory No. 7 is also "no," sign the General Verdict form in favor of Defendant, Kindred Healthcare Operating, Inc. If you have also signed General Verdict forms in favor of Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, your deliberations are completed. Please notify the Court.

Otherwise, move to Interrogatory No. 9 if your answer to Interrogatory No. 3 was "yes." If it was "no," move to Interrogatory No. 10.

INTERROGATORY NO. 8

Do you find by the greater weight of the evidence that Defendant, Kindred Healthcare Operating, Inc., directly and proximately contributed to caused Decedent's death?

Circle your answer in ink:

Yes

No

Those agreeing should sign their name in ink.

If the answer of six or more jurors to Interrogatory No. 8 is "yes", move to Interrogatory No. 9.

If the answer of six or more jurors to Interrogatory No. 8 is "no" and your answer to Interrogatory No. 7 is also "no," sign the General Verdict form in favor of Defendant, Kindred Healthcare Operating, Inc. If you have also signed General Verdict forms in favor of Defendant, KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, your deliberations are completed. Please notify the Court.

Otherwise, move to Interrogatory No. 9 if your answer to Interrogatory No. 3 was "yes." If it was "no," move to Interrogatory No. 10.

“Noneconomic Loss”

Pain: physical discomfort, acute, long term

Suffering: the state of undergoing pain, distress, or hardship

Loss of society: interrupted relationships

Lack of enjoyment of life: lost interest, joy, energy

Disfigurement

Mental anguish

“Any other intangible loss”: fear, anxiety

INTERROGATORY NO. 9

You will now be asked to state the damage award, if any, which will reasonably and fairly compensate Plaintiff's decedent for the injuries proximately caused by the negligence of Defendant(s).

State the amount of compensatory damages awarded to Plaintiff relative to this claim.

Non-economic damages awarded to Plaintiff: \$ _____

Move to Interrogatory No. 10.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 9

You will now be asked to state the damage award, if any, which will reasonably and fairly compensate Plaintiff's decedent for the injuries proximately caused by the negligence of Defendant(s).

State the amount of compensatory damages awarded to Plaintiff relative to this claim.

Non-economic damages awarded to Plaintiff: \$ 3,000,000

_____	_____
_____	_____
_____	_____
_____	_____

Move to Interrogatory No. 10.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 10

Do you find by the greater weight of the evidence that Leona Maxim sustained a permanent and substantial physical deformity, loss of use of a limb or loss of a bodily organ system?

Circle your answer in ink:

Yes

No

If six or more jurors agree, then those agreeing should sign their name in ink. If you answered either Interrogatory No. 4 or No. 8 "yes," move to Interrogatory No. 11. If your answers to Interrogatories Nos. 4 and 8 were "no," your deliberations are now completed. Sign the General Verdict forms in favor of Plaintiff for each Defendant for whom you answered either Interrogatory No. 3 or No. 7 "yes."

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 10

Do you find by the greater weight of the evidence that Leona Maxim sustained a permanent and substantial physical deformity, loss of use of a limb or loss of a bodily organ system?

Circle your answer in ink:

Yes

No

If six or more jurors agree, then those agreeing should sign their name in ink. If you answered either Interrogatory No. 4 or No. 8 “yes,” move to Interrogatory No. 11. If your answers to Interrogatories Nos. 4 and 8 were “no,” your deliberations are now completed. Sign the General Verdict forms in favor of Plaintiff for each Defendant for whom you answered either Interrogatory No. 3 or No. 7 “yes.”

If six or more jurors cannot agree, please notify the Court.

“Loss of Society”

Companionship: feeling of fellowship, friendship

“Loss of Society”

Companionship: feeling of fellowship, friendship

Care: feel concern or interest; attach importance to something

“Loss of Society”

Companionship: feeling of fellowship, friendship

Care: feel concern or interest; attach importance to something

Assistance: helping

“Loss of Society”

Companionship: feeling of fellowship, friendship

Care: feel concern or interest; attach importance to something

Assistance: helping

Attention: awareness, thinking about, listening to, or watching someone or something

“Loss of Society”

Companionship: feeling of fellowship, friendship

Care: feel concern or interest; attach importance to something

Assistance: helping

Attention: awareness, thinking about, listening to, or watching someone or something

Guidance: advice or information aimed at resolving a problem or difficulty

“Loss of Society”

Counsel: trusted, private, intimate

“Loss of Society”

Counsel: trusted, private, intimate

Education: an enlightening experience

“Mental Anguish”

1. Grief: deep sorrow caused by someone's death
2. Untimely loss / surprise
3. Preventable
4. Betrayal
5. Lack of Responsibility

INTERROGATORY NO. 11

State the amount of damages, if any, which will reasonably and fairly compensate Leona Maxim's family for the injury and loss to them caused by the wrongful death of Leona Maxim.

Christine Guest: Past \$ _____

 Future \$ _____

Marilyn Mazzone: Past \$ _____

 Future \$ _____

Jacki Angelo: Past \$ _____

 Future \$ _____

Mark Maxim: Past \$ _____

 Future \$ _____

Each juror who agrees with the above answers to Interrogatory 6(A) and 6(B), sign his or her name:

If six or more jurors agree, then those agreeing should sign their name in ink. Move to Interrogatory No.12.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 11

State the amount of damages, if any, which will reasonably and fairly compensate Leona Maxim's family for the injury and loss to them caused by the wrongful death of Leona Maxim.

Christine Guest:	Past	\$ <u>1,000,000</u>
	Future	\$ _____
Marilyn Mazzone:	Past	\$ _____
	Future	\$ _____
Jacqueline Angelo:	Past	\$ _____
	Future	\$ _____
Mark Maxim:	Past	\$ _____
	Future	\$ _____

Each juror who agrees with the above answers to Interrogatory 6(A) and 6(B), sign his or her name:

_____	_____
_____	_____
_____	_____
_____	_____

If six or more jurors agree, then those agreeing should sign their name in ink. Move to Interrogatory No.12.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 11

State the amount of damages, if any, which will reasonably and fairly compensate Leona Maxim's family for the injury and loss to them caused by the wrongful death of Leona Maxim.

Christine Guest:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Marilyn Mazzone:	Past	\$ _____
	Future	\$ _____
Jacqueline Angelo:	Past	\$ _____
	Future	\$ _____
Mark Maxim:	Past	\$ _____
	Future	\$ _____

Each juror who agrees with the above answers to Interrogatory 6(A) and 6(B), sign his or her name:

_____	_____
_____	_____
_____	_____
_____	_____

If six or more jurors agree, then those agreeing should sign their name in ink. Move to Interrogatory No.12.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 11

State the amount of damages, if any, which will reasonably and fairly compensate Leona Maxim's family for the injury and loss to them caused by the wrongful death of Leona Maxim.

Christine Guest:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Marilyn Mazzone:	Past	\$ <u>1,000,000</u>
	Future	\$ _____
Jacqueline Angelo:	Past	\$ _____
	Future	\$ _____
Mark Maxim:	Past	\$ _____
	Future	\$ _____

Each juror who agrees with the above answers to Interrogatory 6(A) and 6(B), sign his or her name:

_____	_____
_____	_____
_____	_____
_____	_____

If six or more jurors agree, then those agreeing should sign their name in ink. Move to Interrogatory No.12.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 11

State the amount of damages, if any, which will reasonably and fairly compensate Leona Maxim's family for the injury and loss to them caused by the wrongful death of Leona Maxim.

Christine Guest:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Marilyn Mazzone:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Jacqueline Angelo:	Past	\$ _____
	Future	\$ _____
Mark Maxim:	Past	\$ _____
	Future	\$ _____

Each juror who agrees with the above answers to Interrogatory 6(A) and 6(B), sign his or her name:

_____	_____
_____	_____
_____	_____
_____	_____

If six or more jurors agree, then those agreeing should sign their name in ink. Move to Interrogatory No.12.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 11

State the amount of damages, if any, which will reasonably and fairly compensate Leona Maxim's family for the injury and loss to them caused by the wrongful death of Leona Maxim.

Christine Guest:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Marilyn Mazzone:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Jacqueline Angelo:	Past	\$ <u>1,000,000</u>
	Future	\$ _____
Mark Maxim:	Past	\$ _____
	Future	\$ _____

Each juror who agrees with the above answers to Interrogatory 6(A) and 6(B), sign his or her name:

_____	_____
_____	_____
_____	_____
_____	_____

If six or more jurors agree, then those agreeing should sign their name in ink. Move to Interrogatory No.12.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 11

State the amount of damages, if any, which will reasonably and fairly compensate Leona Maxim's family for the injury and loss to them caused by the wrongful death of Leona Maxim.

Christine Guest:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Marilyn Mazzone:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Jacqueline Angelo:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Mark Maxim:	Past	\$ _____
	Future	\$ _____

Each juror who agrees with the above answers to Interrogatory 6(A) and 6(B), sign his or her name:

If six or more jurors agree, then those agreeing should sign their name in ink. Move to Interrogatory No.12.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 11

State the amount of damages, if any, which will reasonably and fairly compensate Leona Maxim's family for the injury and loss to them caused by the wrongful death of Leona Maxim.

Christine Guest:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Marilyn Mazzone:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Jacqueline Angelo:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Mark Maxim:	Past	\$ <u>1,000,000</u>
	Future	\$ _____

Each juror who agrees with the above answers to Interrogatory 6(A) and 6(B), sign his or her name:

_____	_____
_____	_____
_____	_____
_____	_____

If six or more jurors agree, then those agreeing should sign their name in ink. Move to Interrogatory No.12.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 11

State the amount of damages, if any, which will reasonably and fairly compensate Leona Maxim's family for the injury and loss to them caused by the wrongful death of Leona Maxim.

Christine Guest:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Marilyn Mazzone:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Jacqueline Angelo:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>
Mark Maxim:	Past	\$ <u>1,000,000</u>
	Future	\$ <u>500,000</u>

Each juror who agrees with the above answers to Interrogatory 6(A) and 6(B), sign his or her name:

_____	_____
_____	_____
_____	_____
_____	_____

If six or more jurors agree, then those agreeing should sign their name in ink. Move to Interrogatory No.12.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 12

Please state the total amount of damages from Interrogatory Nos. 9 and 11:

\$ _____

If six or more jurors agree, then those agreeing should sign their name in ink.

Sign the General Verdict form in favor of Plaintiff. If you found against both Defendants, move to Interrogatory No. 13. Otherwise, this completes your deliberations. Please notify the Court.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 12

Please state the total amount of damages from Interrogatory Nos. 9 and 11:

\$ 9,000,000

_____	_____
_____	_____
_____	_____
_____	_____

If six or more jurors agree, then those agreeing should sign their name in ink.

Sign the General Verdict form in favor of Plaintiff. If you found against both Defendants, move to Interrogatory No. 13. Otherwise, this completes your deliberations. Please notify the Court.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 13

Please apportion the percentage of liability between Defendant, KND Development 51, LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, and Defendant, Kindred Healthcare Operating, Inc.

KND Development 51, LLC : _____ %

Kindred Healthcare Operating, Inc.: _____ %

These must total 100%.

_____	_____
_____	_____
_____	_____
_____	_____

If six or more jurors agree, then those agreeing should sign their name in ink.

This completes your deliberations. Please notify the Court.

If six or more jurors cannot agree, please notify the Court.

INTERROGATORY NO. 13

Please apportion the percentage of liability between Defendant, KND Development 51, LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, and Defendant, Kindred Healthcare Operating, Inc.

KND Development 51, LLC :	<u>50</u>	%
Kindred Healthcare Operating, Inc.:	<u>50</u>	%

These must total 100%.

_____	_____
_____	_____
_____	_____
_____	_____

If six or more jurors agree, then those agreeing should sign their name in ink.

This completes your deliberations. Please notify the Court.

If six or more jurors cannot agree, please notify the Court.

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ESTATE OF LEONA MAXIM, etc.	:	CASE NO. CV 15 845038
	:	
Plaintiff	:	Judge Shirley Strickland Saffold
	:	
vs.	:	<u>VERDICT FORM IN FAVOR</u>
	:	<u>OF PLAINTIFF</u>
KINDRED NURSING & REHAB -	:	
STRATFORD, et al.	:	
	:	
Defendants	:	
	:	

We, the jury in this case, being duly impaneled and sworn, find in favor of the Plaintiff and against Defendant(s):

(place an "x" next to the Defendant(s) you found against)

_____ KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford

_____ Kindred Healthcare Operating, Inc.

and do assess and determine the damages owing to Plaintiff as follows:

Total Damages: \$ _____

_____	_____
_____	_____
_____	_____
_____	_____

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ESTATE OF LEONA MAXIM, etc.	:	CASE NO. CV 15 845038
	:	
Plaintiff	:	Judge Shirley Strickland Saffold
	:	
vs.	:	<u>VERDICT FORM IN FAVOR</u>
	:	<u>OF PLAINTIFF</u>
KINDRED NURSING & REHAB - STRATFORD, et al.	:	
	:	
Defendants	:	
	:	

We, the jury in this case, being duly impaneled and sworn, find in favor of the Plaintiff and against Defendant(s):

(place an "x" next to the Defendant(s) you found against)

 X KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford

 X Kindred Healthcare Operating, Inc.

and do assess and determine the damages owing to Plaintiff as follows:

Total Damages: \$ _____

_____	_____
_____	_____
_____	_____
_____	_____

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ESTATE OF LEONA MAXIM, etc.	:	CASE NO. CV 15 845038
	:	
Plaintiff	:	Judge Shirley Strickland Saffold
	:	
vs.	:	<u>VERDICT FORM IN FAVOR</u>
	:	<u>OF PLAINTIFF</u>
KINDRED NURSING & REHAB -	:	
STRATFORD, et al.	:	
	:	
Defendants	:	
	:	

We, the jury in this case, being duly impaneled and sworn, find in favor of the Plaintiff and against Defendant(s):

(place an "x" next to the Defendant(s) you found against)

- KND Development 51 LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford
- Kindred Healthcare Operating, Inc.

and do assess and determine the damages owing to Plaintiff as follows:

Total Damages: \$ 9,000,000

_____	_____
_____	_____
_____	_____
_____	_____

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ESTATE OF LEONA MAXIM, etc.	:	CASE NO. CV 15 845038
	:	
Plaintiff	:	Judge Shirley Strickland Saffold
	:	
vs.	:	<u>VERDICT FORM IN FAVOR</u>
	:	<u>OF DEFENDANT, KND</u>
KINDRED NURSING & REHAB -	:	<u>DEVELOPMENT 51, LLC d/b/a</u>
STRATFORD, et al.	:	<u>KINDRED TRANSITIONAL CARE</u>
	:	<u>REHABILITATION-STRATFORD</u>
Defendants	:	
	:	

We, the jury in this case, being duly impaneled and sworn, find in favor of the Defendant, KND Development 51, LLC d/b/a Kindred Transitional Care and Rehabilitation-Stratford, and against Plaintiff.

_____	_____
_____	_____
_____	_____
_____	_____

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ESTATE OF LEONA MAXIM, etc.	:	CASE NO. CV 15 845038
	:	
Plaintiff	:	Judge Shirley Strickland Saffold
	:	
vs.	:	<u>VERDICT FORM IN FAVOR</u>
	:	<u>OF DEFENDANT, KINDRED</u>
KINDRED NURSING & REHAB -	:	<u>HEALTHCARE OPERATING,</u>
STRATFORD, et al.	:	<u>INC.</u>
	:	
Defendants	:	
	:	

We, the jury in this case, being duly impaneled and sworn, find in favor of the Defendant, Kindred Healthcare Operating, Inc., and against Plaintiff.

_____	_____
_____	_____
_____	_____
_____	_____