



Frausto v. Yakima HMA, 188 Wn.2d 227 (Wash. 2017)

Topics Covered: Abusive Litigation Against Physicians

Outcome: Very Unfavorable

Issue

The issue in this appeal was whether a nurse was competent to testify as to the cause of a hospital patient's *decubitus* ulcers (a/k/a pressure sores or bed sores)

AMA Interest

The AMA believes expert witnesses in medical liability issues should have comparable education, training, and occupational experience in the same field as the defendant. Further, the AMA supports state medical society efforts to prevent abusive lawsuits against physicians.

Case Summary

Rudy Frausto, a quadriplegic, presented to Yakima Regional Medical Center with symptoms of general body weakness, influenza and pneumonia. He was treated in the hospital for 10 days, during which time he developed bruising pressure ulcers (a/k/a *decubitus* ulcers or bed sores).

Frausto sued the hospital for malpractice, and the hospital moved for summary judgment in its favor. To support his case, Frausto offered an affidavit from Karen Wilkinson, an advanced registered nurse practitioner. Wilkinson's affidavit opined that the appropriate standard of care was to have provided Frausto with proper bedding, skin assessment, and other care, in order to prevent the ulcers. She further opined that hospital personnel had breached this standard of care. Finally, she opined that the hospital's breach of care had caused the ulcers.

The trial court found that Wilkinson was qualified to testify as to the standard of care. However, the court held that she was unqualified to testify about medical causation. The judge then granted summary judgment for the hospital.

Frausto appealed to the Washington Court of Appeals, which transferred the case to the Washington Supreme Court.

On April 27, 2017, the Washington Supreme Court reversed. It held that the trial court had erred by finding that a nurse would be categorically prohibited from offering opinion testimony regarding medical causation, and it remanded for further consideration of the nurse's qualifications in this case.

Litigation Center Involvement

WSMA, the Washington Academy of Family Physicians, the Washington Chapter of the American College of Emergency Physicians, and the Litigation Center filed an *amicus* brief to support the hospital. The brief argued that Wilkinson was unqualified to testify as to the cause of the decubitus ulcers.

Washington Supreme Court brief