



# The Health Care Industry's Castoffs

Nurses Injured at Work Often Find Themselves Out of Work and Suffering From Chronic Pain

## **Acknowledgments**

This report was written by Taylor Lincoln, Research Director of Public Citizen's Congress Watch division. Anne Hudson, founder of Work Injured Nurses Group (WING) USA, provided significant help in connecting Public Citizen with injured nurses.

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## Introduction

Nurses and other bedside caregivers tend to the most basic needs of patients too ill or elderly to take care of themselves. These caregivers command nowhere near the prestige or salaries of the physicians with whom they work. Yet, nurses exert much of the physical labor that goes on in hospitals, such as turning, lifting and transferring patients.

In raw numbers, more health care and social assistance workers miss work due to injury than do workers in any other profession.<sup>1</sup> Public Citizen reported in detail on this shocking fact in 2013.<sup>2</sup> Still, our report left unanswered a key question: how serious are these injuries? Do the musculoskeletal injuries suffered by nurses and other caregivers amount to nagging inconveniences that occasionally warrant a day off of work? Or do they truncate careers and impinge on caregivers' abilities to carry out normal lives?

This brief report, the first in a five-part series on the problem of injuries to health care workers, will not answer that question conclusively. But the examples outlined in this report include disturbingly similar themes.

Whether caused by freak occurrence, accumulation of physical strain over a career's worth of wear and tear, or both, the nurses profiled here recount suffering injuries at work from which they have never recovered, and likely never will. These injuries left them with chronic pain, reduced mobility and related problems.

One might expect injured nurses to be assigned less physically strenuous work while recuperating from an injury. In some cases, nurses interviewed for this report said that this was the case for them. But other nurses recounted being forced to burn through their vacation and sick time – or simply having to take unpaid time off – when their injuries prevented them from meeting the onerous lifting demands of their normal job.

In some cases, once their banked time and federal protections were exhausted, the caregivers received notice in the mail that they had been fired, sometimes with a recommendation that they should apply to return to work if they recovered from their injury.

Three nurses profiled in this piece who lost their jobs once worked for the same institution, Mercy Hospital in Iowa City, Iowa. Public Citizen summarized the facts reported by these nurses to a Mercy spokeswoman, submitted several questions via e-mail to Mercy, invited Mercy the opportunity to speak generally on its policies regarding injured workers, and

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<sup>1</sup> See, e.g., *Numbers of Nonfatal Occupational Injuries and Illnesses by Case Type and Ownership, Selected Industries, 2013*, U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS (Dec. 4, 2014), <http://1.usa.gov/1FLSfPv>.

<sup>2</sup> KEITH WRIGHTSON AND TAYLOR LINCOLN, PUBLIC CITIZEN, HEALTH CARE WORKERS UNPROTECTED: INSUFFICIENT INSPECTIONS AND STANDARDS LEAVE SAFETY RISKS UNADDRESSED (July 17, 2013), <http://bit.ly/1FZSk5t>.

offered to print the hospital's answers verbatim in this report's appendix.<sup>3</sup> Mercy declined to provide a substantive response.<sup>4</sup>

The caregivers profiled here also recount battles with workers' compensation systems to receive the tests and procedures needed to diagnose their conditions; often requiring surgery; and experiencing chronic, seemingly incurable pain. Several nurses reported severe bouts with depression. Many lamented the side effects of medications they were prescribed to cope with their conditions.

To varying degrees, these employees were able to recoup some lost wages through workers' compensation, but all reported receiving diminished income compared to what they would have gotten had they not been injured.

In most cases, their hard work has now given way to difficult retirements.

## Profiles of Injured Nurses

### Missy Christians<sup>5</sup>

Missy Christians, a registered nurse who worked at Mercy Hospital in Iowa City, Iowa, was charged with caring for six patients during a Saturday night-Sunday morning shift in early February 2010. One of her patients appeared to be suffering from dementia and was continually trying to climb out of bed, Christians told Public Citizen.

At about 4 a.m., that patient attempted to use Christians' shoulder to catapult himself out of bed. He managed to elevate his upper body over the bed's side rail. Christians and a nursing tech caught the patient and positioned him back into the bed. Christians was pulled off her feet and over the side rail.

About half an hour later, Christians recalls, "I was sitting down doing some charting and feeling like 'my back is really sore' ... It felt like I was connected to a low voltage battery in the front of my left thigh." The episode triggered a five-year odyssey that left Christians in constant pain, twice out of a job, and four times on the operating table.

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<sup>3</sup> E-mails from author to Denice Connell, Director of Marketing and Community Relations, Mercy Hospital, Iowa City, Iowa, June 4 and June 5, 2015.

<sup>4</sup> E-mail from Denice Connell, Director of Marketing and Community Relations, Mercy Hospital, Iowa City, Iowa, to author, June 5, 2015. Mercy's response was: "Mercy Iowa City expresses its commitment to patient and employee safety in a variety of ways, and this safety is at the center of what we do. We also endeavor to comply with all regulatory requirements associated with employees and their work. We respect employee privacy and the privilege and confidentiality of legal proceedings. For these reasons, we will not provide any further comment."

<sup>5</sup> Except where otherwise noted, the source materials for the nurses profiled here were interviews between the author of this report and the nurses. These interviews occurred in the form of multiple telephone conversations with each and, in most cases, multiple e-mails. In each case, a near final draft was sent to the person profiled or the draft was dictated over the telephone, primarily for fact-checking purposes.

That Monday morning, she reported to the hospital's occupational health department. Christians was diagnosed with strained muscles and prescribed anti-inflammatories and referred to physical therapy to be evaluated and treated.

But her condition did not improve despite the anti-inflammatories, icing of her back and participation in physical therapy. "Nothing was getting better," Christians, now 43, recalls. "The pain in my leg was getting worse. It started going down into my foot."

Christians told Public Citizen that she had requested diagnostic tests to examine her condition but was unable to get the hospital's occupational health physician to authorize them. She attributed this to a gatekeeper function performed by the hospital's workers' compensation insurance company, which she believes is much more restrictive than imposed by ordinary private insurance companies.

One night in March 2010, as she bent over to kiss her daughter good night, Christians' back gave out on her, causing her tumble to the floor on her knees. "I couldn't get back up for about 15 minutes," Christians said.

"I finally got them to give me an MRI" in the third week of March, she said.

Results of that test showed Christians to have three bulging disks, one of which was possibly herniated. Her occupational health doctor did not think she needed surgery, but prescribed two epidural steroid injections. "Within 24 hours of [the second] injection, my pain was intolerable," she said.

Christians went to the emergency room at Mercy Hospital as soon as possible. At that visit, she was scheduled for a surgical discectomy to remove herniated disk material later that week.

"I felt fine immediately after the surgery," Christians recalls. "But then a week later, I started feeling pain down my leg again."

Christians was forced to take time off of work. She exhausted her vacation and sick time. By the end of June, the 12 weeks of time away that she was guaranteed under the federal Family and Medical Leave Act was used up. She was granted 90 days of discretionary leave by the hospital to maintain her status as an employee. But the discretionary leave agreement the hospital offered Christians included an ominous condition.

"It specifically states that if I am not able to return to work at the end of the discretionary time, my employment will be terminated," she said.

Christians consulted with a lawyer, who advised her to sign the form with a notation that she did not agree to cede her employment if she were unable to return to work at the conclusion of 90 days. In the meantime, physicians would not approve her returning to

work under the normal conditions of her job, with its attendant lifting requirements. Christians says she asked to come back under restricted duty.

"I could have done a lot of things. I said, 'I can start IVs. I can audit charts. I could be the technician who watches monitors, check blood sugars.' There were a lot things," Christians told Public Citizen. "They said, 'unless you can come back to your unit without any restrictions, you can't come back.'"

Christians' symptoms persisted, as did her battles with the workers' compensation insurer. In July, Christians recounts, her orthopedist recommended a new MRI, but the request was initially denied by the workers' compensation insurer. The test was eventually approved and conducted in the first part of August. It showed her disk to be herniated. Her doctor recommended another discectomy.

Another delay of about three weeks ensued while Christians awaited approval from the workers' compensation insurer. The surgery was conducted in the third week of August. Christians was growing concerned because her 90 days of discretionary leave was winding down and would expire before her follow up appointment after her surgery.

"The delays were eating up my [Family and Medical Leave Act] time," she told Public Citizen. "They said, 'don't worry, we will work something and. They said it would be ok.'"

It did not work out. In a letter dated Sept, 22, 2010, Mercy Hospital informed Christians that her employment was terminated.<sup>6</sup>

"Employees who are unable to return to work at the end of their discretionary leave are considered to have resigned voluntarily. Since you have not returned to work, we are considering you to have resigned from your position," said the letter, which Christians furnished to Public Citizen.<sup>7</sup>

The letter indicated an understanding on the hospital's part that she was not medically approved by her physician to return to work. This approval is known as being "released."

"Upon your release to return to work, you are eligible for re-employment at Mercy Hospital, Iowa City, and can apply for any open positions through Mercy's on-line application process," the letter said. "Thank you for your dedicated service to Mercy Hospital."<sup>8</sup>

A "Resignation/Discharge: Final Evaluation & Supervisor Checklist" notice graded Christians in seven categories, representing the information that Mercy Hospital was prepared to furnish potential future employers for job reference purposes. She was graded

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<sup>6</sup> Letter from Sheryl R. Knutson, Employee Relations Coordinator, Mercy Hospital, Iowa City, Iowa, to Melissa Christians (Sept. 22, 2010). Provided to Public Citizen by Christians.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

“effective” in four categories and “exceptional” in three, including “work performance: quantity” and “work performance: quality.”<sup>9</sup>

In June 2011, Christians was hired to return to work at Mercy Hospital in the post-anesthesia care unit, with a 50 pound lifting restriction. But she continued to struggle with pain in her leg.

In 2013, she received a spinal cord stimulator implant, which helped block the nerve pain. “It helped about 50 percent,” she says.

But, by the end of February 2014, pain in her leg was returning “to the point I could barely walk on it.” A CT myelogram test revealed that the disk in her back was herniated again. Christians’ physicians recommended that she have surgery to fuse her spine.

Meanwhile, her doctor refused to permit her to work unless she were restricted to lifting no more than 10 pounds, which, Christians told Public Citizen, the hospital did not accommodate. Once again, Christians was placed on leave pursuant to the Family and Medical Leave Act.

Her surgery was delayed while a dispute between Mercy Hospital and Christians was adjudicated by a workers’ compensation judge over who Christians could choose to perform her surgery. The judge eventually ruled in Christians’ favor.<sup>10</sup> She underwent surgery in early June to fuse two vertebrae

Meanwhile, Christians’ Family and Medical Leave Act time expired. She submitted a request to retain her job while she recovered from surgery. Her doctor said it would take about six weeks before she could return on restricted duty. (By then, Christians said, Mercy Hospital had a more flexible restricted duty policy than it had four years earlier, when she was initially dismissed.)

In a letter dated June 25, 2014, Mercy Hospital informed Christians that she had been fired again. The dismissal letter cited “exhaustion of your 12 weeks of Family Medical Leave on June 18, 2014, with no evidence of ability to return to work in the coming weeks. It is unreasonable to accommodate additional leave of unknown duration.”<sup>11</sup>

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<sup>9</sup> Resignation/Discharge: Final Evaluation & Supervisor Checklist, Mercy Hospital (regarding Missy Christians) (Sept. 22, 2014). Furnished to Public Citizen by Christians.

<sup>10</sup> *Melissa Christians, vs. Mercy Hospital Iowa City and National Union Fire Insurance, Company, Alternate Medical Care Decision*, Before the Iowa Workers’ Compensation Commissioner (date stamped May 8, 2014). Furnished to Public Citizen by Christians.

<sup>11</sup> Letter from Dena Brockouse, Director of Human Resources, Mercy Hospital, Iowa City, Iowa, to Melissa Christians (June 25, 2014). Furnished to Public Citizen by Christians.

The hospital also justified the dismissal based on its findings in an audit that she had not properly accounted for disposal of narcotics in certain instances and had, it said, refused to attend a meeting with hospital officials over that issue.<sup>12</sup>

Christians, who denies that she has ever intentionally done anything improper with narcotics, believes the audit was conducted to find grounds to dismiss her. "They specifically go in and start auditing your charts looking for mistakes they can find. It had happened to several other nurses who had been injured there. And they just cite them for not following Mercy's policy and procedure, and then they terminate them," she told Public Citizen.

As for the documentation of narcotics disposal, Christians acknowledged that her records probably were not perfect, but said this was not unusual. The system required a nurse to dispose of narcotics in the sink with a witness present then make a trip to a computer, again with a witness, to document the disposal.

"There probably were discrepancies," she said. "But I think any nurse you were auditing, there would be discrepancies. It's just a fast-paced environment, and there could be typos."

Christians' workers' compensation lawyer, Paul McAndrew, echoed Christians' opinion that the audit was motivated by a goal of finding a basis to dismiss her because of her physical condition. "They threw up the allegations that she had misused narcotics," McAndrew told Public Citizen. "There's no doubt in my mind that this was manufactured."<sup>13</sup>

"I think that an experienced, Johns Hopkins-trained pharmacologist could use [the Mercy computer system] for a month and the pharmacologist would make an error and that Mercy Hospital could fire that pharmacologist," McAndrew said. "They know that honest mistakes happen and they used an honest mistake here to get rid of a good employee."<sup>14</sup>

Christians denies that she refused to meet with hospital officials over the narcotics disposal issue. Instead, she said that she asked to have her lawyer or another neutral person present. McAndrew corroborated her account. "She's just had surgery and they call and in and they won't let her own lawyer go in," he said. "It's maddening."

Christians furnished Public Citizen with mostly exemplary performance reviews from Mercy Hospital. For example, a review conducted in June 2013, praised her for "skills in anticipating and treating patients," willingness to stay "late in order to complete patient

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<sup>12</sup> *Id.*

<sup>13</sup> Interview between author and Paul McAndrew (May 28, 2015).

<sup>14</sup> Interview between author and Paul McAndrew (June 5, 2015).

care and not call in another nurse” and said, “Missy treats her patients very well, she is kind and considerate to them.”<sup>15</sup>

She does not believe her effort was reciprocated by the hospital. “They just cut you loose once you’re no use to them,” she said.

Christians says the pain in her leg has improved considerably since the 2014 fusion surgery. “I’m getting to the point where I’m feeling the best I have in five years.” Currently, she receives temporary total disability, which pays 80 percent of her base pay, but significantly less than 80 percent of the actual compensation she received, which included overtime and other supplements.

“I don’t want to come across as being vindictive, because I’m not. I always thought I would work my entire career at Mercy,” she said. “I’m just upset at how they handled it. They had other options.”

### **Lynn Kieler**

Registered nurse Lynn Kieler was working in the acute care unit at Mercy Hospital in Iowa City, Iowa, in a late evening in January 2011. A patient, on his feet shortly after having triple-A (abdominal aortic aneurism) surgery, started to fall to the ground.

Kieler and her colleague made a split-second decision to catch the patient and lift him back to a standing position.

“I had so much adrenalin going that I didn’t notice it,” said Kieler, now 69. “I went home and went to bed, and I was awakened by spasms in my neck and shoulder.”

When she awoke, Kieler felt that she was unable to work. She went to the hospital’s occupational health care unit, where she was diagnosed with spasms. Her lifting permissions were restricted. Because of that, the hospital reduced her hours to less than half of a regular full-time schedule, she said.

The chronic pain did not abate. In August 2011, eight months after her injury, Kieler was given MRIs that revealed a tear in her rotator cuff and a cervical disk extrusion.

She underwent surgery to repair the injury to the rotator cuff on October 3. “The day of the surgery, I received a letter saying that I was fired for attendance problems,” Kieler told Public Citizen.

“If they had done that MRI [sooner], I could have gotten surgery in April and been back to work in May, and not lost my job because that’s why I was essentially fired,” she said.

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<sup>15</sup> Mercy Hospital performance appraisal of Melissa Christians (June 10, 2013). Furnished to Public Citizen by Christians.

Kieler contacted a workers' compensation lawyer, who sent a letter demanding her reinstatement, which was not granted. Her lawyer initiated litigation, and Kieler was paid through workers' compensation as the litigation proceeded.

She continued to experience chronic pain. She fell into depression and was prescribed medication to remediate both the pain and depression. Her case was settled right before Christmas of 2013. She received \$150,000 (one-third of which went to her lawyer), and an additional \$11,000 a year for life to pay for medical expenses related to her shoulder injury.

These days, Kieler describes her pain from the injury as variable but persistent. "A couple of months ago I woke up and the pain was so bad that I couldn't move," she said. "At its worst it's an eight out of ten. At its best, it's a two or a three. It's a distraction day after day."

Meanwhile, her 42 year nursing career, including nine years at Mercy Hospital, is over.

Kieler describes her performance reviews at Mercy as strong, dotted with "3s" on the hospital's one-to-three scale while never including a "1," representing subpar performance, in any category.

"They wanted somebody hale and healthy." Kieler told Public Citizen. "I thought I was really valuable to them because I was a good nurse and took care of my patients. But that didn't really matter to them. They just wanted me to be there and be able to function."

### **Janet Forbes**

Janet Forbes, who worked in the orthopedics surgery department at Mercy Hospital in Iowa City, Iowa, suffered an injury in August 2005 when a leg broke off of a rolling stool she was sitting upon, causing her to tumble to the floor.

Forbes, who was then about 55 years old and had worked at Mercy since 1983, said she had suffered numerous injuries in the past, particularly from lifting patients' limbs, but had always recovered. This time, she was left with severe neck, shoulder and arm pain, as well as chronic headaches, and she never recovered.

Mercy Hospital contended that Forbes' condition was unrelated to a workplace event, according to a brief submitted in a workers' compensation case. But Forbes' personal physician concluded otherwise, and recommended that she receive surgery. After a lengthy dispute during which plans for surgery were postponed, Forbes received a discectomy and surgery to fuse two disks in May 2006.<sup>16</sup>

But the surgery did not cure the chronic pain or reduced mobility from which Forbes suffered.

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<sup>16</sup> *Janet Forbes v. Mercy Hospital and Commerce & Industry Insurance Co.*, Review – Reopening Decision, Filed before Iowa Workers' Compensation Commissioner (date stamped Feb. 21, 2011).

Forbes' physicians limited her to lifting no more than 20 pounds, preventing her from doing normal nursing work. Initially, Mercy assigned her to a data entry job involving transferring paper records to a computer system.

In June 2007, Forbes received a letter from Mercy saying that her job was terminated. "I think in years past, they would find jobs for somebody who got hurt," said Forbes, who characterized her performance reviews as consistently good, with ratings of average or above in each category.

Subsequent to her dismissal, Forbes says, "I applied for a million different jobs, looking for something I could do with my restriction." But no nursing job was forthcoming, and she never worked for Mercy again.

Forbes received a workers' compensation settlement calling for her to receive about 60 percent of her previous salary for 300 weeks. Forbes eventually obtained a telemarketing job that she performed for about three years. She was able to retire with the help of Social Security benefits left behind by her former husband.

Forbes told Public Citizen that injuries among nurses at Mercy were common, in part because mechanical lifting equipment was sparse. Moving patients often required inserting sliding boards under them, she said. This required rolling patients on their sides, a strenuous task, especially when turning heavier patients.

Forbes also says staff shortages have imposed greater burdens on caregivers. "We need more help. They're going on a shoestring. They don't have enough people anymore," she told Public Citizen.

Now 65 years old, Forbes has moved from Iowa to the Tampa, Fla., area. Another former Mercy Hospital nurse is her roommate.

Last year, Forbes had a neurostimulator installed to reduce her back pain. The device includes electrodes near her spine and a device inserted near her hip that she turns on and off with a magnet. She also has had trigger point injections, Botox treatment and numerous epidurals. She takes six pills a day, some of which cause lightheadedness, related to her back and neck condition.

Although she says the treatments have helped somewhat, the pain remains. "There are some days where it will be really painful." Forbes told Public Citizen. "The best it gets is a four or a five" on a one-to-ten scale.

**Karen Smith<sup>17</sup>**

In June 2012, Karen Smith was working in the recovery room of a hospital in southern California. A patient partially awoke from hip pinning surgery in a combative manner, and was threatening to pull out his arterial line, which could have caused him to bleed to death. Smith needed to keep him in bed, with his line in place.

"I just layed on top of his legs so he couldn't get out of bed," she said, explaining that his leg was flailing. "If he had gotten out of bed, he would have damaged his leg."

Despite the unusually dramatic nature of this encounter, Smith did not immediately feel ill effects from it.

But "when I went home, I couldn't feel my feet. I couldn't feel to press the gas pedal to tell the difference. I was basically in bed for like 3 days," Smith recalled to Public Citizen. "And what happened is my back basically broke. The spine slipped forward on itself."

Smith has been unable to work from that day forward.

At first, she went to the employee health department and received an x-ray. Her doctor initially told her that it was just back pain. "The pain wasn't that unusual," Smith said, estimating that she normally experienced back pain on a 1-to-10 scale of 3 or 4, which she attributed to a career of aches and pains from lifting patients.

But in this case, the pain did not improve and she could not feel her legs.

In August, Smith underwent an MRI, which revealed that she had a condition known as spondylolisthesis, a condition in which one vertebra slides forward over the bone below it. Smith ended up having surgery in January 2013 to put her spine back in place. Two plates and six screws were inserted to enable her vertebrae to fuse.

But the plates and screws could not stay in permanently. Smith said that her understanding was that a normal schedule would have called for them to be removed in February 2014. But the removal surgery did not end up taking place until November 2014. Smith blames the delay on bureaucratic obstacles associated with obtaining approvals from the California workers' compensation system.

"During the surgery to remove the hardware, they found another problem, which was that the L3-4 disk is flat," she said. "What that means is that I am in severe pain and that they are going to have to do another fusion. I have two disks grinding on each other."

Smith blames the additional complications on the extended period in which the hardware lived in her body. She told Public Citizen that her doctors have speculated as much, too.

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<sup>17</sup> At the suggestion of her lawyer, the nurse asked that her actual name is not used here. Karen Smith is a pseudonym.

Smith, now 58 years old, used to walk five-to-nine miles in a 12 hour shift and take dance classes. Now she uses a cane to walk and says she her mobility is functionally limited to about three hours a day.

“What’s happened now, is that whatever I have to do, I’ve got like three hours to do. I spend most of my life in a recliner,” she said, explaining that the pain increases and her mobility decreases as the day goes along. “I live like an 85 year old. I’m in pain all the time.”

To get by, she takes several muscle relaxers, pain medications and anti-inflammatories, some of which cause drowsiness.

For two years after the injury, Smith was paid by the worker’s compensation system at 50 percent of her previous income. In 2014, she discovered that she was covered by long-term disability insurance. She was paid pursuant to that policy from about July 2014 until February 2015, when the insurer quit paying because it alleged that Smith wasn’t truly disabled.

“They’ve hired surveillance to follow me and they’ve seen me doing exactly what I’ve said I can do,” she said. “I can barely walk. I walk like Fred Sanford.”

More to the point, Smith says, “I can’t sit at 90 degree angle. If you can’t stand or sit, how are you going to be able to work? I can’t do anything for eight hours.”

Smith currently receives Social Security disability pay, which is about one-fourth of her former salary.

She is pursuing lawsuits against the California Division of Workers Compensation and against her long-term disability company. She is seeking paid medical care from workers’ compensation and compensation from her disability insurer until she reaches age 65.

In terms of methods to prevent nurses in the future from suffering the same fate she has, Smith points to a discrete issue surrounding the episode that caused her catastrophic injury and also to the need to reduce repetitive lifting demands on caregivers, which she said cause cumulative harm.

In the incident in which she was injured, Smith says care givers should have recognized that the patient was experiencing a condition known as emergence delirium as he was wheeled from the operating room to the recovery room. “He was thrashing and combative,” Smith said. “They should have given him [medication] to let him sleep it off.”

But Smith says the damage she suffered from that episode probably would not have been nearly as severe if she had not suffered numerous other back injuries throughout her career. She attributes the taxing lifting demands on nurses in part to a shortage of lifting equipment or dedicated lifting personnel.

“The bottom line, if I hadn’t been lifting patients for 40 years, this wouldn’t have happened,” she said.

### **Linda Ward**

Linda Ward, of Great Falls, Mont., suffered a serious back injury while tending to a resident in an assisted living center in 2008.

The resident slept on a bed that had been placed directly on the floor, with no wheels, to reduce the risk of him falling out of bed. A portable commode had been placed near the bed to accommodate the patient’s limited mobility.

As Ward attempted to help the patient from the commode back into bed, her foot became trapped. “It didn’t give when my feet hit the bed,” Ward, a certified nursing aide, told Public Citizen.

The episode left Ward with serious back pain and limited flexibility. “Within a couple of hours, I could hardly walk,” said Ward, now 64 years old.

A subsequent MRI test showed that she had a severely bulging L2-3 disk. Ward had injured her L4-5 disk in 1994. She was prescribed medication for inflammation, but never recovered from the injury.

“My doctor said my back was getting worse and it was going to continue to do so as long as [I was] doing this kind of work,” said Ward, who is originally from Liverpool, England.

Ward managed to maintain her job after the injury, but with significant hiccups. She was unable to climb stairs. When the facility’s elevator was out of service, she was put on leave by her employer, and forced to take vacation time to maintain a pay check.

Her ability to lift was greatly reduced. She credits her colleagues with enabling her to extend her stay in her job by fulfilling certain tasks for her. “My peers were helping me,” Ward told Public Citizen “Everybody was trying to help me stay there longer.”

Ward finally quit in November 2014, at the age of 64. “I left because I couldn’t do the job anymore,” Ward said, explaining that she received a workers’ compensation settlement of a little less than \$48,000.

The assisted living facility at which she worked was caring for patients who should have been in nursing homes, which are equipped to offer more help to patients, she said.

“If the assisted living facilities start to take patients that used to be in nursing homes, they need to have the right equipment,” she said. “In a nursing home, you have machines to help lift people. “There’s a greater chance of something happening to you if you don’t have the equipment.”

Placing patients on beds without wheels, a compromise necessitated by the absence of side rails on the beds, exact a toll on nurses.

"It's hard to lift" patients from that position, she said. "It's hard to even make the beds."

Today, she lives in retirement, in near constant pain that affects her mobility by day and her ability to sleep at night. She makes occasional visits to the assisted living center at which she used to work.

"You get more back from the residents than they give you," she told Public Citizen. "If you've got the right stuff, it's really a beautiful job. I miss it. I really do miss it."

### **Elizabeth White**

In early December 2003, Elizabeth White, a registered nurse living and working in southern California, was tasked with caring for a patient weighing about 400 pounds who had suffered a gunshot wound to his abdomen.

The patient slid down toward the end of his bed. It was White's job to return him to the proper position. "It was that pull up to the head of the bed that injured me. By the end of the shift I could hardly stand," White told Public Citizen. "I have not had a pain-free day since."

An MRI and x-ray showed severe degeneration in all of her disks, bulging disks and torn ligaments, White told Public Citizen. Her vertebrae are offset and the nerves between them are pinched.

White, now 59, attributes her condition in part to accumulation of smaller injuries that had occurred over the years. "Everyone has already worn out their back by lifting," she said. "I had occasionally had back injuries. No back injury is [caused by] just one thing."

White was in too much pain following the injury to engage in normal nursing activities. She credits the hospital for which she worked (which she did not want named for this piece) with permitting her to switch to doing paper work in an effort to allow her to retain her job.

"They were good to me. They were not going to let me go," she said. In retrospect, she has learned that sitting on a conventional chair exacerbates her pain. By April of 2004, her pain was causing her to miss work intermittently.

At that point White's father had a stroke and she visited him in a Utah hospital. "I sat in the hospital with him, and my back was hurting like crazy," she recalled. "I saw the nurses doing the same thing that I did to injure my back. I said, 'why is there not stuff to do this? This can't be rocket science.'"

White, who had always had an inclination toward designs and inventions, resolved to come up with a system that would help caregivers lift and reposition patients without risking injury.

"I knew I could not do nursing, anymore. I was in too much pain," she said. "I just figured: I am going to come up with a design."

She quit working as a nurse in 2005, receiving about three months' pay in a workers compensation settlement. She sold her house in southern California and moved to Utah, south of Salt Lake City. With equity from the sale of the house, she formed a company called ErgoNurse, to develop a safe patient handling system.

"I just started drawing up plans," she said.

The product that emerged is a free standing frame to be positioned at the head of a patient's bed. It has retractable arms that can extend over the bed, parallel to the edge of a mattress. Straps similar to seat belts hang down to the bed, connected by a rigid clamping device that also runs parallel to the sides of the mattress. That device, in turn, clamps on to the sides of the bed sheet upon which the patient is resting.

With minimal effort, a caregiver can use the device to turn, reposition or lift a patient. If used correctly, the bed sheet will rarely tear, White said. The product's retail cost is about \$4,200. White said that ErgoNurse's customers include more than 50 hospitals and two major health corporations.

She says the product not just as a way to prevent nursing injuries but also to improve patient safety. Major causes of health complications among hospitalized patients are bed sores and pressure ulcers, which are largely caused by an immobile patient not being turned frequently enough. Best practices call for patients to be turned every two hours, but that does not always occur in practice, health care professionals say.

"Ask any ICU nurse, if a patient is big, they turn him once a shift," White said. "There's no way to get enough staff to turn him."

Equipment such as that made by her company can remove the barriers to caregivers turning patients at regular intervals.

The business pursuit has given White a second career, but has not spared her from the complications resulting from her first career. She says she still feels constant, at times almost unbearable pain. She relies on a standing desk and a kneeling chair to be able to work through the day.

"It's like a burning tingling pain," she said. "It goes across my back and down my leg to my knee and sometimes to my toes."

## Conclusion

Federal law calls for every working man and woman in the Nation to labor under “safe and healthful working conditions.”<sup>18</sup> The examples this brief report outlines should be considered anecdotal and evocative of the need for more comprehensive research. But these cases coupled with other studies and statistical findings strongly suggest that hospital caregivers are not being afforded the protections that they deserve, both as a matter of law and conscience.

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<sup>18</sup> The Occupational Safety and Health Act, 29 U.S.C. § 651(2)(b) (1970).