

Home Health: Agency Must Look Into Live-In Companion's Background.

An agency hiring and providing home health personnel must investigate their backgrounds, the Superior Court of New Jersey, Appellate Division, has ruled. This is true even if the personnel are not licensed professionals or certified aides, and the court said drug and property-related offenses must be sought out in addition to incidents of abuse.

Clients of an agency supplying live-in companions are often helpless and ripe for abuse.

A sketchy application form and an interview over the phone, with no independent investigation of the applicant's background, criminal history and work experience are wholly inadequate to protect vulnerable clients.

This applicant did not have a current valid driver's license. In fact, it had been suspended for possession of cocaine and there was a record of property-related offenses, apparently to support the cocaine habit.

SUPERIOR COURT OF NEW JERSEY,
APPELLATE DIVISION, 1997.

The court said it was a red flag that this applicant did not have a driver's license. Unfortunately the court left employers in New Jersey in a bind. A home health agency in New Jersey cannot inquire of the division of motor vehicles why an applicant's license was suspended, or obtain a criminal record from the state police. Lingar vs. Live-In Companions, Inc., 692 A.2d 61 (N.J. App., 1997).

Emergency Room: Nurse Must Assess Patient For Suicide Risk, Court Says.

State law says that emergency medical services must be given to a patient who comes to the emergency room as a suicide risk. Suicide risk is a medical emergency for which stabilizing medical care must be offered without regard to insurance coverage or financial status.

The nurse must conduct a mental health assessment to evaluate whether the patient is a potential suicide victim.

If a family member or another person has brought in an individual for mental health reasons, the nurse who initially sees the patient should talk to them to find out if the patient has voiced a suicidal intent or has exhibited bizarre, irrational or self-destructive behavior.

However, if the patient is not having an acute mental health emergency, there is no obligation to provide emergency mental health intervention, or to admit the patient for psychiatric care if the patient cannot make acceptable financial arrangements. The patient can be referred elsewhere, such as to a public clinic.

SUPREME COURT OF LOUISIANA, 1997.

The nurse who initially sees a patient in the emergency room who has come in or been brought in for mental health reasons must assess the patient for acute suicide risk.

If the patient is presently at risk for suicide, that is a medical emergency which requires that stabilizing medical care be given, regardless of the patient's finances or insurance. As in many states, state law on this subject in Louisiana is virtually identical to the requirements of the Federal EMTALA, according to the Supreme Court of Louisiana in a recent case.

In this case, a man's wife phoned the hospital for a mental-health referral, someplace she could take her husband for a psychiatric examination even though he had no means to pay for psychological treatment. The nurse gave her a referral, but that agency would not see him.

Then the wife brought her husband to the hospital emergency room. As the patient was not in immediate danger of harming himself when he got to the emergency room, the nurse acted properly in suggesting the wife take her husband to the nearest county public hospital, the court said. The court ruled that a person or the person's spouse seeking an assessment of a psychological problem does not trigger a responsibility to provide emergency psychiatric care, assuming the person is not in serious distress, is not experiencing a medical crisis and has not expressed suicidal intent or made an overt attempt to harm himself when the person is initially seen by the nurse in the emergency room.

According to the court, 20/20 hindsight is not the standard for evaluating a nurse's psych assessment. If the patient does not manifest a suicidal tendency by acute symptoms evident at the time of the assessment, the nurse is not to be blamed if a suicidal condition manifests itself later and the patient does in fact harm himself. Fleming vs. HCA Health Services of Louisiana, Inc., 691 So. 2d 1216 (La., 1997).