

LEGAL EAGLE EYE NEWSLETTER

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Combative Episode: Jury Finds Negligence, Soft Restraints Not Used To Control Patient.

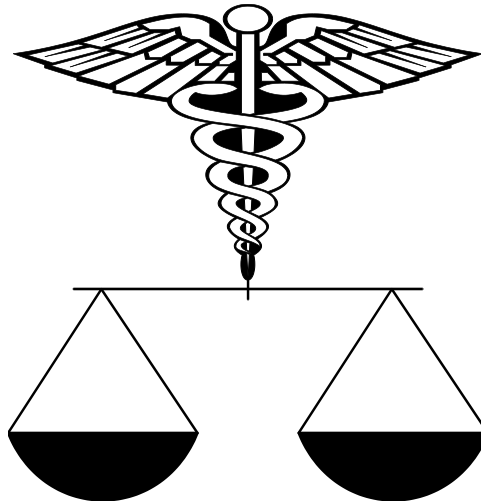
Running through a recent opinion from the Court of Appeals of Louisiana is the theme that an episode of combativeness must be seen by caregivers as a patient's medical emergency rather than as a patient's defiance of caregivers' authority.

The patient's needs must always be the focus for caregivers in controlling a combative patient. The patient's need for personal safety and the patient's need to have the underlying medical condition recognized and treated are of paramount importance.

Caregiving institutions must set up protocols for staff to deal with combativeness with the patient's needs in mind. Staff must always follow the protocols at the risk of being ruled negligent for not doing so.

In this case, trained paramedics had sheriff's deputies handcuff and shackle a patient having a seizure in a restaurant in the community.

The legal standard of care, inside or outside a facility, is the same as the protocols the ambulance company had for its personnel. Soft restraints are to be applied to immobilize the patient's hands and feet. The patient's status must be constantly monitored while restrained for the duration of the combative episode.



The standard of care with combative patients is to be mindful that the patient has a medical condition which accounts for the combativeness.

In the interests of safety, only soft restraints are appropriate, such as the methods hospitals and nursing homes commonly use to keep patients from crawling out of bed or dislodging their IV tubes.

COURT OF APPEAL OF LOUISIANA
January 12, 2005

The court noted that there are a variety of options for ensuring patient safety during a combative episode. Bandages, ace bandages, blankets, sheets, towels, and gauze or leather straps can be used as appropriate alternatives to the methods and devices commonly used to keep nursing home patients secure in their beds.

During a combative episode it is mandatory to protect the head and airway while the patient is manually and physically restrained.

There must be an attempt to find the medical cause of the patient's behavior and/or to determine the patient's medical history if not already known to the patient's caregivers.

In this case the patient had a long history of seizure disorder, information that could have been obtained from his family member who was with him. Then the focus would have been to assay blood levels of his medications and to institute appropriate therapy.

The court, after upholding the jury's verdict of negligence, conceded the patient was partially at fault for not taking his Dilantin. The court reduced the \$800,000+ verdict to \$50,000 plus past and future medical expenses.

Rathey v. Priority EMS, Inc., ___ So. 2d ___, 2005 WL 174566 (La. App., January 12, 2005).

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