

Combative Patient: Court Approves Emergency Use Of Physical Restraints, Throws Out Patient's Lawsuit For Battery And False Imprisonment.

The patient was a diabetic with a history of seizures. He had been brought into the same hospital's emergency room on numerous occasions prior to the night in question.

On the night in question his niece believed he was experiencing an episode of low blood sugar and phoned 911. The emergency medical services paramedics began transporting him unconscious to the hospital's emergency department.

He awoke and became combative in the ambulance shortly before arrival. At the hospital he was unable to give consent and his niece gave consent to treatment on his behalf.

He punched one nurse more than once who tried to take his blood pressure, then twisted another nurse's fingers when she approached with a finger stick to try to get some blood for a blood-sugar reading.

The emergency room physician was not able to communicate with the patient in any meaningful respect. He continued yelling profanities and threatening hospital staff and generally disrupted the entire emergency department.

A physician or a person assisting a physician or acting at a physician's direction has a legal privilege to use force in restraining another person if -

The force is used for the purpose of administering a recognized form of treatment which is believed will promote the physical or mental health of the patient and -

The treatment is administered with the consent of the patient or -

The treatment is administered in an emergency when the patient or another person competent to consent on the patient's behalf cannot be consulted and -

A reasonable person, wishing to safeguard the welfare of the patient, would consent to the treatment being administered to the patient.

COURT OF APPEALS OF KENTUCKY
UNPUBLISHED OPINION
September 19, 2003

At the physician's direction he was placed in four-point restraints and the police were called. The whole time he continued his belligerent attitude, refused to be treated and no medical treatment was administered to him.

The police escorted him out of the hospital, got him to calm down and released him to return home. He sued the hospital for battery, malicious prosecution and false imprisonment.

The Court of Appeals of Kentucky, in an unpublished opinion, approved the local county court's dismissal of the lawsuit.

Use of Physical Restraints Justified In An Emergency

As a general rule no one has the right to restrain another person's liberty or even so much as touch the another person without the person's consent.

However, the law provides medical personnel with a legal privilege against being sued for restraining and treating an individual in an emergency.

An emergency exists when neither the individual or anyone on the individual's behalf is competent or available to consent to treatment. The patient was not competent to consent or refuse to consent and his family member did not refuse consent on his behalf.

The medical and security personnel at the hospital were acting under a physician's direction in order that clearly appropriate and indicated medical treatment could be rendered. **Johnson v. St. Claire Medical Center, Inc.**, 2003 WL 22149386 (Ky. App., September 19, 2003).

LEGAL EAGLE EYE NEWSLETTER

For the Nursing Profession

ISSN 1085-4924

© 2003 Legal Eagle Eye Newsletter

Indexed in
Cumulative Index to Nursing & Allied
Health Literature™

Published monthly, twelve times per year.
Mailed First Class Mail at Seattle, WA.

E. Kenneth Snyder, BSN, RN, JD
Editor/Publisher

12026 15th Avenue N.E., Suite 206
Seattle, WA 98125-5049
Phone (206) 440-5860
Fax (206) 440-5862
info@nursinglaw.com
http://www.nursinglaw.com

Circle one: \$155 print \$120 electronic

Check enclosed _____ Bill me _____ Credit card _____

Signature _____ Visa/MC/AmEx/Disc No. _____

Expiration Date _____

Name _____

Organization _____

Address _____

City/State/Zip _____

Phone toll free

1-877-985-0977

Mail to:

**Legal Eagle
PO Box 4592
Seattle WA
98194-0592**