

Deceased's Remains: Nurse Tried To Contact Family, Then Called The Coroner. Court Rules Family Member Has No Right To Sue.

The daughter of the deceased had little contact with her mother.

While her mother was living in a nursing home the daughter provided the nursing home with information about her mother's burial insurance and gave instructions to send her body to a particular funeral home when she died.

Six months later the daughter contacted the nursing home with her new address.

Five months after that the daughter went to visit her mother in the hospital. She gave a nurse at the hospital a new address and phone number which the nurse noted in the patient's chart.

There was no further contact between daughter and mother before the mother passed away in the hospital nine months later from congestive heart failure.

A nurse tried to contact the daughter at the address and phone number in the chart, but it turned out it was actually an old address and phone number.

The nurse called the nursing home and obtained another number, which turned out to be disconnected.

The patient was admitted to the hospital at the request of the nursing home where she resided.

The hospital had no direct relationship with the daughter of the deceased and had no direct obligation to the daughter with regard to the remains.

Without a direct relationship with the daughter the hospital could not be held liable to the daughter for emotional distress.

The family has a limited legal interest in the remains of the deceased, that is, the family has the right to take possession to see that the remains are taken care of in an appropriate manner.

However, when the next of kin cannot be found, by law the coroner must be notified and the coroner must take possession and dispose of the remains.

CALIFORNIA COURT OF APPEAL
December 11, 2003

The hospital notified the coroner's office, as required by law when the next of kin cannot be located. The coroner took custody and had the body cremated.

When the daughter found out, she sued the hospital for infliction of emotional distress. The California Court of Appeal dismissed the lawsuit.

No Legal Relationship Between Daughter and Hospital

The court ruled there was no legal relationship between the daughter and the hospital, as the deceased had been admitted by the nursing home and was being cared for on behalf of the nursing home.

The hospital had no legal obligation to attempt to contact the daughter and no legal liability for not doing so.

Nurse Carried Out Legal Duties

Nevertheless, the court ruled the nurse did everything that would have been required even if the daughter had admitted the patient. A nurse tried to contact her using the information she provided.

According to the court, a healthcare provider with custody of a patient's remains has no legal obligation to conduct an exhaustive investigation to locate the whereabouts of a deceased patient's family members who have to all intents and purposes abandoned the patient in the provider's care.

The family at most only has the right to see that appropriate measures are made for a funeral, burial or cremation, and cannot sue for damages. ***Spates v. Dameron Hosp.***, 7 Cal. Rptr. 3d 597, 2003 WL 2292454 (Cal. App., December 11, 2003).

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