

# LEGAL EAGLE EYE NEWSLETTER

March 2002

*For the Nursing Profession*

Volume 10 Number 3

## Crime Revealed To Police: Psychiatric Nurse Violated Medical Confidentiality.

For more than two years a patient was being seen at a psychiatric clinic. The morning of the day after he robbed a bank he phoned the clinic, spoke with the nurse and made an appointment for that afternoon.

He came in an hour early. He was highly agitated. He told the nurse he had done something very stupid and was going to go to jail.

He also told the nurse he had taken an overdose of his psychiatric medications. The nurse interpreted it as a suicide attempt.

The patient showed the nurse a handgun he was carrying, which he said was not the weapon he had used in the robbery the day before. He said he had used a toy gun. She asked if it was loaded, asked him to unload it and asked him to put it in her desk drawer.

The nurse told the patient he should go to the hospital for the medication overdose and as a suicide precaution. She called 911 for transport.

As standard procedure the ambulance company called the police. At the clinic the nurse gave them the gun. The patient was taken to the hospital. Upon further investigation the nurse told the police the patient said he had robbed the bank. He was arrested at the hospital the next day.



***When the patient told the nurse at the psychiatric clinic he had robbed a bank and had a gun, the nurse got him to unload it and leave it in her desk drawer. At that point the gun posed no threat of harm.***

***The nurse acted properly turning the gun over to the police, but telling them the patient had confessed to a crime was a breach of confidence.***

SUPREME JUDICIAL COURT OF MASSACHUSETTS, 2002.

### **Violation of Medical Confidentiality**

A healthcare professional, particularly in mental health, has a strict obligation to maintain the confidentiality of information revealed by a patient in the course of treatment.

There is a widely-recognized exception to this rule when a patient reveals an intent to harm an identifiable person or an intent to commit a crime. A healthcare professional can and must take steps to prevent it by informing the intended victim and by reporting to law enforcement what the patient said.

### **No Threat / No Evidence of a Crime**

According to the Supreme Judicial Court of Massachusetts, once the gun was locked in the nurse's desk drawer there was no further threat of harm. The nurse could give the gun to the police just to get rid of it, but since it was not evidence of a crime she could not identify its source or reveal anything more about the circumstances.

### **Past Crime Is Strictly Confidential**

The court noted it is strictly confidential when a patient reveals in the course of treatment that he or she has committed a crime and it is unprofessional for a healthcare professional to report it to anyone, including law enforcement. **Commonwealth v. Brandwein**, 760 N.E. 2d 724 (Mass., 2002).

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