

Dementia: Patient's Cigarette Lighter Should Have Been Confiscated, Court Rules.

The family of a hospital patient obtained a \$1.4 million verdict against the hospital where the patient sustained fatal burn injuries in a fire apparently started by the patient. The size of the verdict reflected the jury's assessment of the pain and suffering endured by the patient during the two and one-half weeks between the fire and the patient lapsing into a coma shortly before dying.

The New York Supreme Court, Appellate Division, upheld the verdict and overruled the hospital's appeal. The court did not consider in detail the extent of the patient's dementia. The court did not want to try to make an arbitrary ruling at what stage in the progression of dementia it is no longer appropriate to let a patient keep a cigarette lighter. Instead, the court ruled that a diagnosis of some dementia places the legal responsibility on caregivers to assess correctly the safety issues posed by the patient's continued unrestricted possession of a cigarette lighter, and to take appropriate action. **Nelson vs. New York City Health and Hospitals Corp., 654 N.Y.S. 2d 378 (N.Y. App., 1997).**

A diagnosis of some degree of dementia does not automatically mean caregivers must take away a patient's cigarette lighter.

A diagnosis of dementia does require caregivers to assess correctly whether possession of a lighter poses a potential danger to the patient and to others.

A patient with impaired decision-making could foreseeably cause a fire and sustain serious burn injuries.

Caregivers owe their patients the legal duty to evaluate this safety issue correctly.

NEW YORK SUPREME COURT,
APPELLATE DIVISION, 1997.

Hearing-Impaired Patient: No Sign Language Interpreter (Cont.)

(Continued from page 1)

Second admission: Two weeks after her discharge, the patient was admitted again to the same hospital. This time there was an emergency call placed to the agency to obtain an interpreter. The agency was unable to provide an interpreter on short (two hours) notice as its contract with the hospital required. The court did not find fault with the hospital for this. The court was impressed at the hospital's resourcefulness locating a visitor who could sign for the patient this time.

The court ruled that failing to provide a sign language interpreter as mandated by the patient's need to communicate with her caregivers at critical moments left this patient isolated, frightened and unaware of her medical condition. The patient went into psychological counseling for post-traumatic stress disorder. Her therapist testified the patient expressed feelings of being dehumanized and out of control, almost as if she were being raped.

The court ruled that a patient who suffers emotional trauma from an incident of disability discrimination can sue in civil court for monetary damages for mental anguish and emotional distress. There was no conclusive proof in this case that this patient's physical condition was affected by the fact she could not communicate with her caregivers and receive communication from them. The court left the option open for future cases, however, for patients who do sustain actual physical harm, to file allegations of medical negligence on top of their disability discrimination claims.

The court ruled the hospital at fault for two reasons. The hospital did not place an emergency call to the agency for an interpreter when the patient was first admitted. During her stay, the hospital did not coordinate the presence of an interpreter with the patient's physicians' visits so that the patient could communicate with them. **Negron vs. Snoqualmie Valley Hospital, 936 P. 2d 55 (Wash. App., 1997).**

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