

Home Health: Caregivers Are Not Responsible For Elopement After Lapse In Client's Regular Daily Routine.

The contract with the family expressly stipulated that an aide was to come to the home for one hour between 11:30 a.m. and 12:30 p.m. every day, Monday through Friday, to do light housekeeping and to fix the client's lunch.

The family hired the home health agency because their eighty-five year-old father was showing signs of dementia. Unfortunately the severity of his illness was not fully appreciated until his last elopement, which resulted in injuries and, in turn, a lawsuit against the home health agency.

Break In Regular Daily Routine Client Went Looking For Caregiver

One day the agency aide showed up an hour late. The client was gone. Later that afternoon a neighbor called the son and told him his father was crawling around on the neighbor's lawn with his face bloodied from a fall in which he had broken his jaw.

Adult Protective Services investigated. They determined the gentleman needed a secure dementia-care placement. It came to light he had, in fact, wandered away from home twice before.

Home Health Agency Did Not Take Responsibility For Dementia Care

The Court of Appeals of Washington said that the family's home-health experts' assessment of the situation was probably correct.

Strict daily routine is extremely important to dementia patients. This gentleman became upset when his caregiver did not show up on time and left the home to find someone to help him.

However, the experts' assessment was beside the point, legally speaking. The home health agency contracted only for one hour of daily non-licensed care.

The agency never took on responsibility for providing supervision and security to prevent elopement. Agency staff had no authority or even the means to keep the gentleman from leaving his home. The agency is not liable. **Robins v. Home Care of Washington**, 2009 WL 2883386 (Wash. App., September 10, 2009).

The client's need for around-the-clock supervision in a secure dementia-care facility was painfully obvious after the fact.

That need, however, went far beyond what a one-hour daily time commitment from a home health agency could fulfill.

The home health agency is guilty of breach of contract, at worst.

The family has no grounds to sue the home health agency for negligence for the client's injuries from his fall during his elopement.

The home health agency did not assume the responsibility to prevent the client from eloping from his own home.

The agency had no legal obligation, no legal authority, not to mention no realistic way to physically restrain the client in his home if he wanted to leave, no matter how unsafe it was for him to wander away.

It is not necessary to find fault with the family for failing to appreciate the patient's needs. The only issue is that the home health agency never agreed to provide full dementia care.

COURT OF APPEALS OF WASHINGTON
September 10, 2009