

Intoxicated E.R. Patient Left AMA, Hit By Car: Court Sees No Liability By Hospital For Personal Injuries.

The patient who was brought to the hospital's E.R. by a friend asked for admission to the hospital's detox facility.

He showed obvious signs of intoxication, red eyes and garbled speech and a had a strong odor of alcohol. His blood alcohol was .369% but he was mentally alert and was able to walk.

Earlier that same month he had come to this same E.R. with suicidal ideation. During that visit he was admitted, placed on one-to-one suicide watch, given psychiatric medications and then discharged after his condition improved.

However, no one at the E.R. consulted the records from that previous admission during this trip to the E.R.

He was accepted for the hospital's detox facility. While waiting for transport, about four hours after first arriving in the E.R., he removed his own IV and told a nurse he was going home in a taxi. The nurse urged him to call a friend to pick him up. Then the nurse told the E.R. physician he was leaving and asked if she should call the police. The nurse was told not to call the police and to notify hospital security, but the patient was already gone.

One or two hours after the patient left the hospital he was struck by a car and injured. He sued the hospital for alleged negligence in letting him leave.

There are surely few principles more basic than that the members of a free society may, with limited exceptions, come and go as they please.

Of course, there are people so mentally impaired that they must be denied this right, but that category is a narrow one and it does not include everyone who would be safer in an alcohol detox facility than on the street.

A person can be restrained without a formal court order only when it is necessary to prevent the person from doing some immediate injury to himself or herself or to others and only when the urgency of the case demands immediate intervention.

An impaired person who is not immediately dangerous cannot be arrested, restrained or detained.

COURT OF APPEALS OF NEW YORK
June 26, 2013

The Court of Appeals of New York ruled the hospital was not responsible for the patient's injuries.

State law does permit involuntary detention by a hospital E.R. of a person who is substantially impaired by alcohol.

However, the law distinguishes between persons who are brought in *versus* ones who come in voluntarily because of alcohol intoxication.

A patient brought in against the patient's wishes for alcohol intoxication can be detained if a physician determines there is a likelihood of harm to the patient or others demonstrated by threats or attempts at suicide or other harmful actions.

A patient who comes in voluntarily for alcohol detox or other chemical dependency treatment cannot be restrained or detained involuntarily if the patient changes his or her mind and decides to leave against medical advice, the Court said.

Prior Admission for Suicidal Thoughts

The Court ruled it was irrelevant that the hospital's E.R. personnel failed to consult this patient's prior treatment records which included admission and treatment in the form of suicide precautions. According to the Court, the hospital would have had no legal justification or legal duty to detain this patient just because he had been suicidal earlier that month.

There also was no legal liability imposed on the hospital or the E.R. physician, the Court ruled, because the E.R. physician discounted the E.R. nurse's suggestion to notify the police that the patient had left. ***Kowalski v. St. Francis Hosp.***, __ N.E. 2d __, 2013 WL 3197637 (N.Y., June 26, 2013).

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E. Kenneth Snyder, BSN, RN, JD
Editor/Publisher
PO Box 1342
Sedona AZ 86339
Phone (206) 718-0861

kensnyder@nursinglaw.com
www.nursinglaw.com

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