

## Abuse: Court Says That Home Health Nurse Did Not Willfully Abuse Her Patient, Nursing Board's Charges Dismissed.

A home health nurse's care for her eighty-one year-old patient consisted primarily of managing her medications, that is, going to the home and observing and documenting that she was taking them. Among other medications the patient was on Seroquel, prescribed as treatment for her schizophrenia.

After being let into the home by a neighbor the nurse noticed the patient's oxycodone was not with her other medications. The nurse went through the house room by room, opening kitchen cabinets, rifling through dressers, etc., looking for the oxycodone bottle, basically to ascertain whether or not the patient might be taking it inappropriately.

The patient became very upset. The neighbor who was still there believed the nurse's had acted inappropriately and reported her to the State Board. The Board sent the nurse a formal letter of reprimand, put her license on probation and ordered her to complete coursework in legal/ethical issues and therapeutic communications.

The Court of Appeals of North Carolina reversed the Board's decision. The nurse's conduct had the effect of upsetting the patient, but the nurse did not act willfully, that is, with an intent to cause any physical or mental harm. Eshoff v. Board of Nursing, \_\_ S.E. 2d \_\_, 2008 WL 706787 (N.C. App., March 18, 2008).

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***The Board of Nursing erred finding that the nurse willfully harassed, abused or intimidated her patient either physically or verbally.***

***Willful conduct is done purposely and deliberately with specific intent to do something the law forbids.***

***The nurse's conduct was very upsetting to her patient, but the nurse had no intent to cause harm.***

***The nurse did not do or say anything with the intended purpose of harassing, abusing or intimidating her client, although that seems to have been the actual effect her actions had on her client. There was a therapeutic purpose which justified what the nurse did.***

COURT OF APPEALS  
OF NORTH CAROLINA  
March 18, 2008

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