

# Involuntary Psych Hold Prolonged: Patient's Rights Violated, Court Lets Lawsuit Go Forward.

Pursuant to a court order, the eighty-four year-old patient was involuntarily committed to a private psychiatric facility for treatment for mental instability and danger to others.

The court order explicitly stated that the period of involuntary treatment could not exceed ninety-six hours unless a new petition for a further period of detention and treatment was filed in court.

Her admission date was May 15 and she was held until July 22 with no new petition for further detention filed in court.

A voluntary admission consent form was placed on the front of her chart as a flag to alert staff that she could not be kept involuntarily, but the patient did not sign until the day before discharge after apparently being led to believe it was a paper she had to sign to be allowed to go home.

Some delay was caused by a social worker's attempt to arrange a nursing home placement for her, even though the patient said she wanted to return to her home where she had lived independently.

The patient would have been allowed to leave if she had tried to leave AMA, yet no one ever advised her that she had the right to leave. Instead, the facility's nurses consistently led her to believe that she could not leave until a discharge order was written by the physician medical director.

***The program director, a registered nurse, testified the facility used a multidisciplinary approach to patient discharges at the expiration of court-ordered mental health detention.***

***A psych patient, she testified, is not discharged until the treatment team is satisfied that the patient has been prepared for discharge and is able to be discharged safely.***

***When asked whether she understood that a psych patient with a ninety-six hour commitment order must be released unconditionally after ninety-six hours unless a new court petition has been filed, she said the facility takes care of the patient until the patient is ready to be discharged.***

***No one was designated at the facility to inform patients of their rights.***

UNITED STATES DISTRICT COURT  
MISSOURI  
June 13, 2014

The patient filed a lawsuit against the facility, the physician who served as medical director and the registered nurse who served as program director. The US District Court for the Eastern District of Missouri saw legal grounds for the lawsuit to proceed to trial.

## Not a Professional Malpractice Case

The Court overruled the defendants' argument that the patient needed a medical expert witness to prove her case. It is not a malpractice case, the Court pointed out.

A jury can award damages for deprivation of personal liberty without hearing expert testimony about the medical standard of care or the harm to the victim.

## Civil Rights Violation

The law treats a private corporation and its employees the same as a governmental agency and its officials and employees for purposes of civil rights violations when private individuals perform an essentially governmental function like detaining persons for involuntary psychiatric hospitalization, the Court said.

## Medical Battery

Battery is the term used in the civil law for a violation of the right possessed by every person to be free from unwanted and unauthorized touching of the body.

The Court saw grounds for allegations of medical battery against the facility's program director for the fact the patient was treated without her consent and without any valid legal authority for most of her period of involuntary treatment. ***Pierce v. Pemiscot Mem. Health, \_\_\_ F. Supp 2d \_\_\_, 2014 WL 2645882 (E.D. Mo., June 13, 2014).***

LEGAL EAGLE EYE NEWSLETTER  
For the Nursing Profession  
ISSN 1085-4924

© 2014 Legal Eagle Eye Newsletter

Published monthly, twelve times per year.

Print edition mailed First Class Mail  
at Seattle, WA.

Electronic edition distributed by email file  
attachment to our subscribers.

E. Kenneth Snyder, BSN, RN, JD  
Editor/Publisher  
PO Box 4592  
Seattle, WA 98194-0592  
Phone (206) 440-5860  
Fax (206) 440-5862  
kensnyder@nursinglaw.com  
www.nursinglaw.com

Clip and mail this form. Or if you prefer, order online at [www.nursinglaw.com](http://www.nursinglaw.com).

Print \$155/year \_\_\_\_\_ Electronic \$95/year \_\_\_\_\_ Phone 1-877-985-0977  
Check enclosed \_\_\_\_\_ Bill me \_\_\_\_\_ Credit card \_\_\_\_\_ Fax (206) 440-5862  
Visa/MC/AmEx/Disc No. \_\_\_\_\_  
Signature \_\_\_\_\_ Expiration Date \_\_\_\_\_

Name \_\_\_\_\_  
Organization \_\_\_\_\_  
Address \_\_\_\_\_  
City/State/Zip \_\_\_\_\_  
Email (If you want Electronic Edition\*) \_\_\_\_\_

\*Print subscribers are also entitled to Electronic Edition at no extra charge.  
Mail to: Legal Eagle Eye PO Box 4592 Seattle WA 98194-0592