Arbitration: Resident Is Presumed To Have Been Competent.

The employee who helped the nursing home resident sign the admission papers testified it was standard practice to explain the entire admission agreement, including the arbitration clause, and make sure the resident understood everything.

If there was any doubt about the resident's ability to understand what he or she was signing, the process was to be turned over to a physician or nurse to assess the resident's mental competency to understand and sign legal documents.

If the resident seemed confused, inquiry would be made to see if someone held a power of attorney for the resident's affairs, and the resident would not be asked to sign anything.

The District Court of Appeal of Florida pointed out that any adult is presumed to be competent to sign a valid contract.

The deceased patient's family, who wanted to get around the arbitration agreement and sue in court, had no evidence that Alzheimer's, delirium, delusions, confusion or psychiatric problems were present when she signed the admission paperwork. **John Knox Village v. Perry, __ So. 3d __, 2012 WL 3537057 (Fla. App., August 17, 2012).**

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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

PTSD + COPD: Court Says No Nursing Negligence Was Involved In Psychiatric Patient's Death.

The patient was a Vietnam veteran who was admitted to a Veterans Administration facility for treatment of post-traumatic stress disorder (PTSD).

The facility is a tertiary psychiatric facility which, unlike a typical hospital, has no emergency department and does not perform surgery. It does have an urgent care facility and a med/surg floor.

The patient was housed in a transitional care dormitory setting while undergoing care for PTSD.

History of Chronic Obstructive Pulmonary Disease

The patient's medical history included a diagnosis of chronic obstructive pulmonary disease (COPD) five years earlier.

In the five years preceding his admission to the psychiatric facility he had been seen numerous times in hospital emergency rooms for breathing problems.

Events Leading to Patient's Death

The patient began one morning to have difficulty breathing. A physician's assistant called a code. The patient was given a chest x-ray and taken to the facility's urgent care unit. After a couple of hours his condition seemed to improve and he was able to walk back to the dormitory unit under his own power.

Back in the unit where he was housed he was assessed by the nurses twice that afternoon over several hours time.

Both times his vital signs were found to be normal and he was told to report any changes in his condition.

The patient's nurse assigned a health technician to check on the patient at least once every hour. At 12:00 midnight the patient was in bed asleep and was breathing normally. At 1:00 a.m. he was awake in bed but was not experiencing any apparent difficulty breathing.

At 1:40 a.m. the resident in the next room heard the patient in distress and called the health tech. The health tech came to the patient's room, left the room to call a code, returned to the room and then left again to make the code call again.

The code team arrived within three minutes and found the patient unresponsive and cyanotic. The physician on the code team performed CPR which improved the patient's color and his pulse, but he never regained consciousness and died several months later.

Court Finds No Negligence

The US Court of Appeals for the Third Circuit affirmed the lower Federal Court's finding of no negligence.

There was no departure from the accepted standard of care in the way the nurses and the non-licensed staff assessed and monitored the patient.

Because the patient's condition had apparently resolved, there was no negligence involved in the decision to discharge the patient from urgent care back to his dormitory setting rather that keeping him in urgent care or transferring him to an outside acute care hospital facility. **Keating v. Coatesville VA Med. Ctr., 2012 WL 3140915 (3rd Cir., August 3, 2012).**

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