

## Patient Abuse: Aide's Conviction Of Criminal Charges Upheld.

An eighty year-old Alzheimer's patient was well known by nursing home staff for easily becoming agitated, combative and violent.

She was usually restrained in her wheelchair with a lap belt.

Early one morning she wanted to elope from the facility and opened a door which immediately set off an alarm.

The charge nurse decided for the patient's own safety to sedate her with an IM medication. Several staff tried to hold her down, but that only made her more agitated and more combative and she lashed out verbally with threats toward staff.

Nursing home policy at that point required her caregivers to pause, release her, step away, leave her alone temporarily and give her time to calm down.

One of the aides, however, decided instead to escalate the provocation by coaxing her into the TV room where the aide kicked her wheelchair, punched and slapped her and pulled out some hair.

When the director of nursing was informed of the incident the next morning she reviewed the surveillance videotape from the TV room and then fired the aide on the spot, along with two other aides who stood by and watched and did nothing to stop what their co-worker was doing.

Then the DON turned the videotape over to the local police.

The Court of Appeals of Ohio upheld the aide's conviction of criminal charges of patient abuse. The videotape evidence left little doubt what the aide had done. Technical legal objections to the admissibility of the videotape were overruled by the judge who heard the case.

### **Physical Injury Is Not Required To Prove Patient Abuse.**

The DON and other nurses who examined the victim after the incident found no physical evidence of injury other than some of her hair that had been pulled out, but physical injury is not a necessary legal element of the crime of patient abuse. State v. Simmons, 2011 WL 1646819 (Ohio App., April 29, 2011).