

Mental Health: Discharge And Readmission Not An Effective Way To Extend Legal Deadlines.

The New York Supreme Court, Appellate Division, ruled recently that discharging an individual being involuntarily detained for emergency mental health evaluation to his family, so that the family could call the police to readmit the individual on an emergency basis to the same facility later the same day, was a “transparent attempt to avoid the legal consequences of the failure to follow statutory mental health commitment procedures.”

To hold an individual longer than fifteen days involuntarily state law requires that a formal petition be filed in court for a hearing regarding a long-term commitment for evaluation and/or treatment.

Shuffling an individual out and right back in again does not start a new fifteen-day period running. **People ex rel. Noel vs. Jones**, 646 N.Y.S. 2d 820 (N.Y. App., 1996).

Disability Discrimination: Nurse's Back Injury Ruled Not A Disability.

Anurse's back injury from turning a patient is not a disability as the term “disability” is defined for purposes of disability discrimination, according to the Court of Appeals of Ohio.

The court noted that the interpretive guidelines to the Americans With Disabilities Act say that temporary impairments, such as sprains and broken limbs, with little or no long-term impact, are not considered disabilities or grounds for lawsuits. **Maloney vs. Barberton Citizens Hospital**, 672 N.E. 2d 223 (Ohio App., 1996).

Medical Confidentiality: Patient's Threats Toward Ex-Wife Properly Reported To Police, Court Rules.

It is not a breach of medical confidentiality for a healthcare professional to warn a potential victim of a patient's dangerous propensities, the Superior Court of Delaware has ruled.

Courts around the U.S. are not just overlooking the traditional definition of medical confidentiality to protect potential victims, but are now imposing an affirmative duty on psychiatrists, psychologists, therapists and other mental health workers, in inpatient and outpatient settings, to warn identifiable victims when patients make threats toward them, according to the case precedents the Delaware court reviewed in its formal opinion.

In this case, an armed forces veteran was receiving outpatient therapy for chronic alcohol abuse. Over the past twenty years he had been considered bipolar. It was known to his therapist that he had killed his brother some years before, but found not guilty by reason of insanity.

During the course of therapy the patient repeatedly voiced an intention to kill his ex-wife. It was known that his ex-wife had left the state and was living in hiding because of his harassment, intimidation and threatening conduct.

Finally, the patient stated he was leaving town that evening to find his wife and kill her. The therapist called the local police and the police in the county where the wife was known to be living. Working together, the two police agencies apprehended the man, one and one half miles from the intended victim's residence, with a newly-purchased hunting knife and roll of duct tape in his car. He was charged with making terrorist threats and attempted murder. The court had nothing but praise for the therapist's actions. **State vs. Bright**, 683 A. 2d 1055 (Del. Super., 1996).

Abuse Of Patient: Court Says Giving Enema Without An Order Negligent, Not Abusive.

Anurses' aide misunderstood the nursing home's policy regarding residents on the laxative list. Their bowel movements were to be closely monitored and noted on the flow sheet, but no resident, on the list or not, was to be given an enema without a physician's order.

The aide and another gave a resident an enema. The aide was reported to the state for abusing a patient. After a series of administrative appeals, the Court of Appeals of Wisconsin ruled that the aide, although mistaken, did what she thought was in the best interest of the resident.

She was negligent for not checking for a physician's order for an enema. However, the aide's actions were not in “willful and wanton disregard” of the resident's needs and interests. A good faith error in judgment does not fit the legal definition of abuse of a patient. The aide's name was to be removed from the state's registry of healthcare workers known to have abused a patient. **Kennedy vs. Wisconsin Department of Health and Social Services**, 544 N. W. 2d 917 (Wis. App., 1996).

Visitor Falls From Chair: Hospital Ruled Liable.

A hospital has to anticipate that elderly visitors coming to sit with patients in the hospital atrium will have difficulty with chairs that are light and unstable, have a high center of gravity or easily slide across a slippery floor surface, the Court of Appeals of Ohio has said. Hospitals are responsible to patients and to visitors for injuries from hazardous conditions on the premises. Hospitals must anticipate that some visitors will be elderly and infirm. **Crane vs. Lakewood Hospital**, 658 N.E. 2d 1088 (Ohio App., 1995).