

## Psychiatric Care: Court Rejects Allegations In Nurse's Case.

An RN became very upset during a meeting with her nurse manager that she requested to report a sexual assault by a coworker committed off-site at another coworker's wedding. The RN's distraught condition quickly worsened to what seemed like a full-blown panic attack.

The nurse manager sent her to the hospital's emergency department. There a nurse gave her Ativan and Seroquel pursuant to the E.R. physician's orders.

Early the next a.m. the E.R. physician had the RN sent to a psychiatric facility for involuntary commitment. The seeming panic attack had progressed to poor judgment, auditory hallucinations, irrational thought patterns and paranoid delusions.

### Patient Signed

#### Voluntary Admission Form

A psychiatric nurse asked the patient to sign papers when she arrived, including a voluntary admission form.

The psychiatric nurse later testified from her progress note that the patient, although tearful and anxious, had full affect and verbalized an understanding of the intake assessment questions that were being asked of her.

When the psychiatrist saw the patient the psychiatrist diagnosed an acute stress reaction and psychotic, depressive and obsessive compulsive disorders.

The psychiatrist told the patient she was required to stay at the facility 72 hours and prescribed two antidepressant medications which the patient agreed to take.

The patient stayed five days and voluntarily took her medications.

At no time did the facility initiate court proceedings for an involuntary 72 hour mental-health hold.

### Court Finds No Liability

The Court of Appeals of Ohio ruled the RN had no legal case against the psychiatric facility.

The psychiatric intake nurse charted that the patient appeared to understand what she was doing when she signed a form for voluntary admission, notwithstanding the fact she like anyone else in her situation would naturally be in a distraught emotional state. **Kulich-Grier v. OhioHealth**, 2014 WL 4460278 (Ohio App., September 11, 2014).

***The patient has no proof the facility asked her to sign a voluntary admission form to circumvent the required statutory legal procedures for a 72 hour involuntary mental health hold.***

***The statute allows a mental health facility where a patient has been taken to offer voluntary admission as an alternative to involuntary commitment.***

***When she signed the voluntary admission form the patient appeared to understand what she was doing, according to the psychiatric nurse's progress note for the patient's admission.***

***Either way, the patient was promptly seen by a psychiatrist who had been designated by the facility's chief medical officer to perform evaluations for involuntary commitments.***

***The psychiatrist determined the patient needed care, although there was no specific finding of danger to self or others or further steps taken to comply with the involuntary commitment statute.***

***However, there is no proof of any malicious intent or bad faith on the part of the facility's medical or nursing staff in the admission assessment process or the patient's treatment.***

COURT OF APPEALS OF OHIO  
September 11, 2014

## Visitor's Slip And Fall: Court Finds No Negligence.

A family member slipped and fell and fractured her hip when she went to visit her sister who was a resident in a nursing home.

The resident occupied the window bed in her room.

Her roommate in the door bed suffered from Parkinson's disease which made her prone to shaking.

Despite her difficulties the roommate was often allowed to feed herself food items and beverages as long as they did not pose a choking hazard.

The roommate was known to her caregivers in the nursing home often to spill her food and drinks on the floor.

She was eating some ice cream on the day in question while seated in her wheelchair just inside the door to the room. The resident testified later she saw that her roommate had spilled her ice cream which created a puddle on the floor.

As the sister tried to maneuver around the roommate's wheelchair which was almost blocking the doorway, not being aware of the slippery puddle of ice cream on the floor, she fell and was injured.

The resident's sister sued the nursing home for negligence.

*Continued on next page.*

***When another patron creates a hazardous condition, a person injured by the condition must prove that the business owner had, or in the exercise of reasonable care should have had knowledge of the hazardous condition.***

***The business owner is liable only if the owner was or should have been aware of the hazardous condition and failed to correct it or failed to warn other patrons about it.***

COURT OF APPEALS OF OHIO  
September 11, 2014

## Visitor's Slip And Fall (Continued).

Continued from previous page.

The Court of Appeals of Ohio dismissed the sister's lawsuit, finding no negligence by the nursing facility.

The Court expressly rejected the argument the facility could be held legally liable for the simple fact the roommate had a known history of spilling food and beverages on the floor.

It was true that the roommate often spilled on the floor, and the care-giving staff knew she often spilled, and they continued to allow her to feed to herself certain items, and they routinely came to the room and wiped the floor within five minutes when a new spill was detected.

It was also true that the sister, even though a family member and not a resident of the facility, was a person deemed by the law as a business invitee with the right to expect the premises to be reasonably safe.

However, according to the Court, there was no reason here to depart from the established legal rules governing legal liability for slip and fall injuries.

The facility had no actual knowledge that the roommate had created this particular spill on this particular day. Nor was there proof the spill had been on the floor long enough that the facility should have known about it and done something before the sister fell. **Byrd v. Arbors East**, 2014 WL 4459120 (Ohio App., September 11, 2104).

## Psychiatric Medication: Patient Gave His Consent, Case Dismissed.

**An involuntarily committed psychiatric patient can only be medicated involuntarily if proper procedures have been followed to obtain a court order which expressly authorizes involuntary medication.**

**This patient verbalized consent to be medicated, even while his delusional thought processes apparently led him to believe he was being medicated forcibly against his will.**

**Every citizen's right to liberty includes the right not to be medicated forcibly unless a strong governmental interest in medicating the individual against his or her own will has been demonstrated to a court of competent jurisdiction.**

**Because of the patient's expressed consent, legal procedures for court permission were not needed.**

UNITED STATES DISTRICT COURT  
MARYLAND  
August 21, 2014

A judge committed the patient to a psychiatric facility for evaluation of the patient's competency to stand trial after the patient was arrested on criminal charges of making telephone threats.

His initial psychiatric evaluation showed that his mental illness impaired his rational thought processes and rendered him a danger to others. The psychiatrist concluded he was not capable of understanding the criminal charges or the legal proceedings pending against him and was not competent to stand trial.

While still being held involuntarily the patient got agitated when another patient's belongings were moved into the double room where he was housed. He threw the items out of the room, cursed at a staff member and insisted on a private room.

He was offered an IM injection of medication he was told would calm him down. He grudgingly agreed. He was medicated and did calm down.

The patient later filed a lawsuit claiming that he was forcibly medicated against his will and that the nurses were making sexual advances toward him.

The US District Court for the District of Maryland pointed out the facility never went through the process of obtaining approval from the local court for involuntary psychiatric medication, above and beyond the court order for involuntary commitment. However, that did not matter because the patient did verbalize consent to be medicated with a psychiatric medication. **Jiggetts v. Bailey**, 2014 WL 4187314 (D. Maryland, August 21, 2014).

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