

Speech-Impaired Patient: Court Rejects Disability Bias Lawsuit.

In the hospital the patient's diagnoses included bipolar disorder, acute anxiety, tardive dyskinesia and post-traumatic stress disorder, which she claimed confirmed her status as a disabled person with the right to be free from discrimination based on her disabilities.

She also has a speech impairment, for which she relies upon a battery-operated computer which reproduces the text she types into the device as speech which others can hear.

Her computer must be plugged in for recharging when not in use. During the night during her hospital stay the computer was kept plugged in at the nurses station.

When the patient wanted it, however, the nurses allegedly refused to give it to her. Then she wrote a follow-up request on a napkin and was allegedly placed in seclusion. She then had to attend her discharge conference without any effective means of communication.

To obtain a court order guaranteeing future treatment free from discrimination by a care provider, a disabled person must come forward with actual proof that future involvement with the same provider is virtually certain to occur.

UNITED STATES DISTRICT COURT
WISCONSIN
July 1, 2014

The US District Court for the Eastern District of Wisconsin ruled the patient as a disabled person was not entitled to sue the hospital for a court order compelling the hospital to conform its policies and practices to Federal guidelines established under the Americans With Disabilities Act as far as other patients are concerned.

The patient would be entitled to a court order affecting the conditions of her own future hospitalization at the same facility, but only if she had solid proof that future hospitalization was certain to occur. **Reed v. Columbia St. Mary's**, 2014 WL 2987311 (E.D. Wisc., July 1, 2014).

A hospital falls within the definition of a place of public accommodation and as such is subject to the US Americans With Disabilities Act (ADA).

The ADA defines discrimination by a place of public accommodation as failure to make reasonable modifications in policies, practices or procedures when such modifications are necessary to afford such goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless such modifications would fundamentally alter the nature of such goods, services, facilities, advantages or accommodations.

Disability discrimination is also outlawed by the US Rehabilitation Act.

The Rehabilitation Act applies to any program or activity receiving Federal financial assistance, such as hospitals that participate in Medicare or Medicaid.

The Rehabilitation Act says that no otherwise qualified individual with a disability shall be excluded from participation in or denied the benefit of Federally financed programs or be subjected to discrimination on the basis of disability.

UNITED STATES DISTRICT COURT
WISCONSIN
July 1, 2014

Patient's Fall: Court Not Able To Find Evidence Of Nursing Negligence.

The patient was admitted to the hospital with a diagnosis of terminal mucinous adenocarcinoma of the appendix to undergo a surgical procedure to remove a large abdominal tumor.

Five days after her surgery she spilled water in her hospital bed and used her call button to summon her nurse.

A nurse came to the room and assisted the patient to a sitting position with her legs over the side of the bed. The nurse left the patient alone in that position while the nurse went to get some new bed linen and dispose of the towels she had used to mop up water from the floor.

When the nurse returned she found the patient on the floor with a cut on her forehead. The patient soon became unresponsive. Advanced cardiac life support was initiated but the patient passed away.

The family's expert, a physician, never reviewed the hospital's protocols for fall risk assessment and fall prevention, and was himself unfamiliar with general nursing standards.

UNITED STATES DISTRICT COURT
RHODE ISLAND
July 7, 2014

The US District Court for the District of Rhode Island dismissed the family's lawsuit which alleged negligence by the patient's nurse. The simple fact a patient falls does not prove negligence without proof of substandard fall-risk assessment and/or inadequate fall precautions which failed to meet the hospital's own internal protocols or general nursing standards.

It was also inconclusive that the moment of the patient's fall was not the moment when she finally succumbed to her serious medical co-morbidities. **Morris v. Rhode Island Hosp.**, 2014 WL 3107296 (D. Rhode Island, July 7, 2014).