

## Suicide: Hospital Ruled Not Liable For Patient's Death After Discharge From The E.R.

The family's lawsuit alleged that the hospital's E.R. physicians and nurses were responsible for the patient's death from an apparent suicide two and one-half days after discharge from the hospital.

He was found dead by the police in the van in which he lived. The *post mortem* revealed he had ingested a fatal overdose of methadone several hours earlier.

The E.R. physicians and nurses allegedly failed to assess the extent of the patient's risk for self-harm and made an inappropriate decision to release him.

### Emergency Room Assessment

The police brought the patient to the E.R. around 2:00 a.m. after they found him in a park. He was homeless but was on disability and was eligible for Medicaid. He said he had nowhere else to go.

He told the E.R. personnel he had taken a large dose of methadone earlier that afternoon for a toothache. He said he got the methadone from a friend. He also revealed a history of psychiatric treatment for depression and bipolar disorder.

His chief complaints were nausea and depression. He was given Zofran for nausea and later given Ativan for agitation.

However, a few hours into his stay he went into respiratory arrest and was quickly brought back with Narcan. At that point the plan was to keep him and watch him for further signs of narcotics overdose and then release him once he was stable.

The patient, except for his brief respiratory arrest, was at all times alert and oriented x3 and denied he was suicidal.

Soon after being fed his breakfast he was discharged with a recommendation that he follow up with a psychiatrist.

The US District Court for the Eastern District of Michigan ruled the hospital did not violate the US Emergency Medical Treatment and Active Labor Act, in that this patient was given the same emergency medical screening and stabilizing treatment before discharge in stable condition that any other patient would have received at the hospital with the same presenting signs and symptoms. ***Estate of Lacko v. Mercy Hosp.***, 2011 WL 5301775 (E.D. Mich., November 3, 2011).

***The hospital's standard practice was to stabilize an overdose patient medically and then discharge the patient with instructions to follow up with a psychiatrist.***

***This patient was given a pamphlet from the crisis center where he was supposed to go later that day if he needed to and the name of a specific psychiatrist he was supposed to phone.***

***The US Emergency Medical Treatment and Active Labor Act requires a hospital emergency department to give every person who comes in seeking treatment for an emergency medical condition the same medical screening examination as any other patient.***

***The hospital's E.R. nurses and physicians recorded the patient's mode of arrival, chief complaint, history of present illness, vital signs, past medical history, social history, family history, review of systems, medications and physical examination.***

***The psych assessment by the E.R. physician was that he was stable, fully oriented and not suicidal at the time he was discharged.***

UNITED STATES DISTRICT COURT  
MICHIGAN  
November 3, 2011

## Suicide Attempt: Nurse Fired, Did Not Respond Promptly.

While a nurse was getting ice for one of her patients a resident rolled up in his wheelchair in the hallway yelling that his roommate was trying to kill himself. The resident was so excited that he knocked the cup from the nurse's hand and scattered ice cubes all over the floor.

Another nurse immediately went to the room. She took a pair of scissors away from the roommate who was slashing at himself, having as yet only cut his gown.

The first nurse, instead, took the time to pick up the spilled ice cubes before going to the room.

She was soon terminated and then she sued for disability and age discrimination.

***The nurse's thyroid condition, Grave's disease, is not a disability. It does not cause a substantial limitation of a major life activity.***

UNITED STATES DISTRICT COURT  
PENNSYLVANIA  
October 24, 2011

The US District Court for the Eastern District of Pennsylvania ruled against the fired nurse's discrimination lawsuit.

Her condition did not cause a substantial limitation of a major life activity and could be controlled by medication. She was not disabled within the meaning of the Americans With Disabilities Act.

She was sixty-four years of age at the time of her firing and the oldest nurse at the facility and was replaced with a thirty year-old newly hired LPN who earned \$7 per hour less than she, ostensibly grounds for an age discrimination lawsuit.

However, the nurse's intentional and inexplicable failure to respond immediately to a potentially life-threatening emergency was a legitimate, non-discriminatory reason to terminate her employment, even if she was disabled and even if it appeared at a superficial glance that she was the victim of age discrimination. ***Lewis v. Genesis Healthcare***, 2011 WL 5041348 (E.D. Pa., October 24, 2011).