

LEGAL EAGLE EYE NEWSLETTER

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For the Nursing Profession

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Patient Leaves Against Medical Advice: Court Throws Out Allegations Faulting The Nurses.

The patient was admitted to the first hospital with complaints of inability to walk or stand, inability to talk/slurred speech, decreased mental state, chest heaviness, dizziness, aches in her joints, numbness and tingling in her hands, low grade fever, tachycardia, agitation and irritability.

After four days of tests and observation her physician decided to move her to the hospital's mental health unit for a psychiatric evaluation.

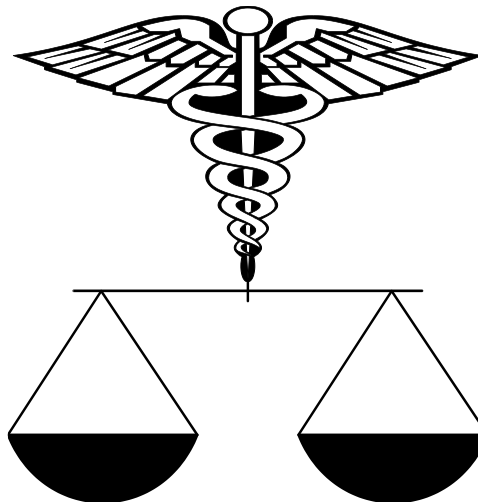
The patient and her sister disagreed with this. The patient left and two hours later was at a second hospital's emergency room.

The second hospital got the records from the first hospital and ran tests. The tests showed she had low lymphocyte, red blood cell, hemoglobin and hematocrit levels and elevated sedimentation rate, creatine kinase and alkaline phosphatase.

After almost a day in the second hospital's emergency department the physician informed her of his intent to admit her to the hospital's mental health unit.

The patient and her sister became upset with this decision and went home. Two days later the patient died.

The medical examiner's autopsy established meningoencephalitis as the cause of death.



The hospital's emergency room nurses did not attempt to intervene when the patient decided to leave the hospital against medical advice.

The nurses had no legal duty to try to stop the patient.

In fact, the hospital could have faced civil liability for medical battery, i.e., unauthorized treatment, if the nurses had forcibly intervened.

COURT OF APPEALS OF OHIO
December 9, 2004

Second Hospital Dismissed Nurses Not At Fault

The patient's family filed a complex medical malpractice suit against both hospitals, six physicians and one nurse.

The issue recently heard by the Court of Appeals of Ohio was the dismissal of the second hospital from the lawsuit based on a finding of no legal liability by its E.R. nurses for failing to intervene to stop the patient from leaving against medical advice.

The court ruled that nurses have no legal duty to attempt to stop an individual who refuses the treatment being offered and leaves. A nurse would commit a civil medical battery, opening up the possibility of a civil lawsuit, by trying to force an individual to remain and accept treatment.

It is not a nurse's legal responsibility to decide the medical issue whether an individual has the mental capacity lawfully to refuse treatment.

The court did believe this patient was competent and was within her rights to refuse treatment. She consented to the treatment that was given to her and could refuse treatment and leave any time she wished.

In any event those are not issues for which nurses are responsible. **Griffith v. University Hosp.**, 2004 WL 2847850 (Ohio App., December 9, 2004).

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