

LEGAL EAGLE EYE NEWSLETTER

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Alzheimer's: Court Says Nurse Assaulted By Patient Cannot Sue Patient Or Family.

Because the patient was not mentally competent to care for himself and posed a danger to himself and others the patient's daughter was named as his legal guardian.

As legal guardian she had him admitted to the long-term care unit of the local county hospital. Two weeks after admission the staff had him transferred from the long-term care unit of the hospital to the hospital's psychiatric unit because of agitation and assaultive behavior toward staff.

His daughter insisted he be taken off the psych unit. After three weeks he was transferred back to the long-term care unit and placed in the Alzheimer's section. The interdisciplinary team believed his aggressive acting-out had subsided to the point where a less restrictive placement in long-term care was more appropriate for him than the psych unit.

In the Alzheimer's section he opened a fire door and set off the alarm. As the charge nurse tried to redirect him from leaving he pushed her down and injured her.

The charge nurse sued the daughter, the physician and the patient. The Superior Court of New Jersey, Appellate Division, ruled there were not sufficient grounds for the lawsuit



The patient's daughter insisted her father be moved back to the long term care unit from the psychiatric unit.

It was the care team who made the decision.

The daughter had no control of her father or of placement decisions affecting him and was not responsible for his actions toward his nurses.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
November 20, 2002

Family Member Ruled Not Liable

The court ruled a patient's family member is not legally liable to caregivers for trying to have input in a placement decision regarding the patient.

The daughter had no choice but to place him in the facility. Then it became the facility's ultimate responsibility for care and placement decisions.

Physician Ruled Not Liable

In this case the charge nurse, the physician and the multidisciplinary team were all employees of the facility.

As a general rule, state worker's compensation laws establish worker's compensation as the only legal recourse for employees' on-the-job injuries. Negligence lawsuits are not allowed against the employer and co-employees, whether or not actual negligence can be proven.

Patient Ruled Not Liable

The trial judge instructed the jury they had to evaluate the patient's mental capacity to decide if he could appreciate the nature and consequences of his actions, which the jury decided he could not.

The Appellate Division ruled that is the correct approach in cases involving caregivers assaulted by Alzheimer's patients.

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