

## **Arbitration: Wife Signed Agreement As Patient's Agent.**

The patient had to be admitted to a nursing home because of physical problems which made him unable to perform activities of daily living independently, such as bathing and dressing.

At the time of admission his mental status exam showed that he was alert and oriented despite his physical limitations.

The patient's sister arrived soon after the patient arrived via ambulance. However, the patient insisted that his wife come in to sign the admissions paperwork for him, which included an advance directive, receipt for information concerning resident's rights, Medicare and Medicaid forms and an arbitration agreement.

After the patient suffered cardiopulmonary arrest and died, possibly from choking on his food, a lawsuit was filed by the executor of his probate estate.

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***A mini-mental status exam was done as the patient was being admitted. The patient was found to be alert and oriented.***

***The patient had physical problems which made it impossible for him to hold a pen and sign his name.***

***The patient asked specifically for his wife to come in to sign the papers for him.***

COURT OF APPEALS OF KENTUCKY  
March 19, 2010

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The Court of Appeals of Kentucky ruled it was not proper for the case to have been filed in civil court. The case belonged in arbitration, the Court said.

As a general rule a patient who is mentally competent must sign the arbitration agreement himself or the agreement is not valid. In this case, however, it was clear that the patient, who was mentally competent to appoint an agent, appointed his wife as his agent for the purpose of signing for him. The arbitration agreement was valid. ***Laurel Creek v. Bishop, 2010 WL 985299 (Ky. App., March 19, 2010).***