

## Arrest Warrant: Nurse's Lawsuit Fails In Court.

An RN working as a charge nurse in a mental health facility refused to allow local police officers to enter the facility to carry out an arrest warrant for a patient. The nurse insisted she first had to contact her supervisor for permission.

Over the nurse's protests that she had a responsibility to protect her patients the officers forced themselves in, struggled physically with the nurse, carried out the arrest warrant for the patient and then arrested the nurse herself for obstruction.

The nurse was allowed to plead guilty to a lesser charge of disorderly conduct.

Then the nurse sued the police officers for alleged excessive force and alleged violations of her Constitutional rights.

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***The nurse acted improperly resisting the police officers' execution of a valid arrest warrant.***

***The officers used no more force than was necessary in response to the nurse's repeated refusals to comply with their lawful commands to stop obstructing them.***

***The nurse is not able to establish that the officers violated any law.***

***The officers are entitled to legal immunity from a lawsuit under these circumstances.***

UNITED STATES COURT OF APPEALS  
ELEVENTH CIRCUIT  
November 13, 2015

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The US Court of Appeals for the Eleventh Circuit (Georgia) dismissed the nurse's lawsuit.

The Court was unable to find any indication the officers broke the law or used excessive force in executing a valid arrest warrant, which is a lawful law-enforcement function. Bien-Aime v. Vice, \_\_ Fed. Appx. \_\_, 2015 WL 7075410 (11th Cir., November 13, 2015).

## Forced Urinary Catheterization: Nurses Faulted.

The police detained a suspect for driving under the influence of alcohol.

Due to her lung disease the suspect was not able to produce a reading on a breathalyzer. She was given ten cups of water but could not provide a useful urine specimen. She was taken to a hospital.

In the emergency room a nurse drew blood from the suspect and then, at the direction of the police officers, inserted a urinary catheter to obtain a urine specimen.

The suspect later developed a MRSA infection from the catheterization.

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***Medical professionals' legal immunity from being sued for taking samples of bodily fluids for law enforcement applies only when the sample is obtained using the skill and care ordinarily exercised by others in the profession in obtaining such samples.***

UNITED STATES DISTRICT COURT  
NEW JERSEY  
December 1, 2015

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The suspect's lawsuit named the city, the police officers, the hospital and two nurses as defendants.

The US District Court for the District of New Jersey faulted the nurses for the urinary catheterization. The patient's lawsuit raised no issue as to the blood draw.

Sufficient time was not allowed for the patient to urinate before she was catheterized. Only sixteen minutes went by after her last of ten cups of water and forty-six minutes after her first before she was catheterized, which called into question the medical necessity of the catheterization.

The Court took the fact the patient developed MRSA as an indication that the procedure was likely not carried out according to professional aseptic standards.

A female police officer who is not a medical professional was allowed to participate and she was not properly gowned or gloved. Powell v. City, 2015 WL 7760178 (D.N.J., December 1, 2015).

## Swan-Ganz Catheter: Nurses Ruled Not Liable.

Two days after mitral valve surgery the patient's nurses attempted to remove her Swan-Ganz catheter.

The nurses encountered unexpected resistance. For a time they kept pulling on the catheter nevertheless while the patient cried out in pain. Then the nurses recognized that something out of the ordinary was wrong and alerted the physician.

The surgeon came in and himself tried to pull out the catheter but was unable. He then ordered an imaging study which revealed the catheter had inadvertently and incorrectly been sutured in place internally during the surgery.

A second surgery was done, during which the anesthesiologist pulled on the catheter before the sutures had been released. The catheter had been sutured to the superior vena cava. Pulling on the sutures tore the vessel and resulted in major bleeding which, before it could be controlled, led to multi-organ failure that left the patient in critical condition. The patient died almost three months later.

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***The patient's family's lawsuit alleged the hospital's nurses were responsible for the patient's pain endured while the nurses tried unsuccessfully to carry out the normal procedure for removing her catheter.***

COURT OF APPEALS OF TEXAS  
November 18, 2015

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The Court of Appeals of Texas refused to accept the opinions of the family's nursing expert that the hospital's nurses were responsible for the patient's pain during their initial efforts to remove the catheter.

The Court was also unwilling to accept that the anesthesiologist who damaged the patient's major blood vessel by pulling on the still-sutured catheter was a hospital employee or someone the patient would perceive as being a hospital employee. The hospital was dismissed from the case. Tenet v. Bernal, \_\_ S.W. 3d \_\_, 2015 WL 7280897 (Tex. App., November 18, 2015).