

LEGAL EAGLE EYE NEWSLETTER

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For the Nursing Profession

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Nurse Finds Illegal Contraband In Patient's Clothing: Patient's Rights Were Not Violated.

A man was taken to the emergency room at a state-operated hospital following a motor vehicle accident.

Following standard hospital practice for inventorying the patient's property, the nurse unzipped a pocket in the patient's coat. She found cocaine and ammunition.

The nurse notified her supervisor. The items were turned over to the police officer who had accompanied the patient to the hospital. The officer read the patient his Miranda rights and questioned him. The patient admitted the items were his and consented to a search of his car where a firearm and digital scales were found.

Nurse Not Acting Along With Law Enforcement

The US District Court for the Eastern District of Kentucky ruled there was no violation of the patient's Constitutional rights.

The court contrasted this case with a 2001 US Supreme Court case which ruled that hospital personnel did violate their patients' rights. In that case hospital personnel worked directly with law enforcement by obtaining urine samples from pregnant women to test for illegal drugs, ostensibly to use the threat of criminal prosecution to force them into addiction treatment.



The police officer did not communicate with the nurse about possible criminal activity before the nurse checked the pockets of the patient's coat.

The hospital's policy is reasonable. It serves to prevent injury to patients and hospital staff and to protect the hospital from potential liability.

UNITED STATES DISTRICT COURT
KENTUCKY
August 17, 2006

A caregiver risks violating a patient's Constitutional rights if the caregiver has an understanding with law enforcement that the caregiver will search the patient's person or personal property on behalf of law enforcement for possible evidence of criminal activity.

Nurse Was Following Established Hospital Procedures

The nurse in this case found the evidence accidentally in the course of routine healthcare treatment, not while trying to find grounds to incriminate her patient.

The nurse was only following hospital procedures, as she understood them, which required her to remove, log and inventory a patient's clothing and personal property so that treatment could be given and so that the hospital would have a record of the patient's property to protect the hospital if the patient later accused the hospital of losing or stealing something.

There is no requirement of probable cause or need for a search warrant for a nurse to search a patient's clothing and personal property if the nurse is simply following hospital policy and is not acting under the direction of law enforcement.

Like any other citizen, once evidence of a crime is found a nurse has the legal obligation to turn the evidence over to law enforcement. ***US v. Clay*, 2006 WL 2385353 (E.D. Ky., August 17, 2006).**

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