

Dependent Adult Abuse By Family Member: Court Endorses Caregivers' Actions.

Two adult daughters visited their elderly mother in the nursing home where she resided.

Later that same day a staff nurse reported to her charge nurse that she saw one of the daughters shoving the resident into her wheelchair and wheeling her out of view and then heard the daughter screaming at the resident.

The charge nurse told the staff nurse to write an incident report and to forward the report to the nursing director.

The nursing director told the staff nurse to examine the resident for signs of physical injury and forwarded the incident report to the nursing home president.

The nursing facility, its staff nurses, nursing director, president and owner were not named as defendants in the daughter's lawsuit.

The only actual legal issue was the Court's ruling that the police officer was not liable to the resident's daughter for false arrest.

The officer arrested the daughter based on reports from the nursing facility and his own investigation.

The daughter was acquitted of criminal charges. The complaint filed against her with the Department of Human Services was dismissed after an administrative hearing.

Nevertheless, the patient's caregivers all acted appropriately in the patient's best interests.

SUPREME COURT OF IOWA
January 9, 2015

The nurse's exam revealed fresh bruising on the resident's knee and forearms. The nursing director phoned the local police.

The assigned detective came to the nursing home and met for over two hours with the staff involved, then asked to speak with the resident herself.

The nursing home caregivers persuaded the detective not to speak directly with the resident, fearing that could lead to reprisals by the daughter if and when her actions led to legal repercussions.

Instead, they proposed that a physician speak with the resident, examine her and then speak with the detective.

The detective was given a copy of the staff nurse's initial incident report for this incident and was also made aware of previous similar incidents and given copies of pertinent chart notes.

The detective reported the daughter to the Iowa Department of Human Services and requested they assign a caseworker immediately to investigate and step into the situation.

The physician found "thumbprint" bruises on the resident's forearms and a bruise on her buttocks which were consistent with the first staff nurse's description of the incident. The physician's report was summarized in a phone call to the detective by a nursing home staff member.

The detective called the daughter to come down to the police station. She refused to talk without a lawyer present. She was arrested nevertheless.

Daughter Acquitted of Charges

The jury acquitted the daughter of misdemeanor assault charges.

An administrative law judge dismissed the complaint filed with the Department of Human Services and the case was closed.

However, the Supreme Court of Iowa ruled the detective had probable cause to arrest the daughter.

The overall tone of the Court's opinion was that the resident's caregivers and other concerned parties acted appropriately with her best interests at heart. Veatch v. Waverly, __ N.W. 2d __, 2015 WL 15493 (Iowa, January 9, 2015).

Racial Bias: Physician's Case To Go Forward.

An African-American physician sued a hospital where she had had staff privileges, along with several individual doctors and a Certified Registered Nurse Anesthetist with whom she had worked.

Although she never lost her staff privileges, her lawsuit alleged that racial animosity directed toward her by her physician colleagues and staff nurses at the hospital caused her to lose patients and eventually caused her to have to close down her medical practice altogether.

The physician claimed she was expressly told the town was a white town and the hospital was a white hospital and she would have difficulty practicing there due to her race.

The minority physician alleged that nurses at the hospital blatantly disregarded her orders and directed racist remarks at her.

UNITED STATES DISTRICT COURT
TEXAS
January 7, 2015

The US District Court for the Eastern District of Texas has not yet ruled one way or the other on the veracity of the allegations in the physician's lawsuit.

The Court has ruled the allegations of the physician's lawsuit, if they can be proven, would amount to valid grounds for a lawsuit against the hospital and the individually named defendants. The physician will be entitled to her day in court to prove her case.

The physician's lawsuit is based on the US Civil Rights Act which broadly outlaws many forms of racial discrimination.

The hospital and the individual physicians have indicated they will rely in their defense on Federal and state health care quality improvement statutes which grant legal immunity to individuals who are compelled to make disparaging statements about a physician in connecting with credentialing issues. Obey v. Frisco, 2015 WL 150921 (E.D. Tex., January 7, 2015).