

Domestic Violence: Hospital Has No Legal Duty To Keep Victim From Abuser, Lawsuit Dismissed.

A young woman and her husband arrived at the hospital's E.R. seeking treatment for lacerations on the woman's hand and thigh.

They said she had just been thrown from a horse, but the jeans she had on were not torn. The husband refused to leave her side and the woman was sketchy about the details. The nurse suspected domestic abuse.

When the husband was not looking the nurse pointed to a domestic-abuse poster on the wall. The woman shook her head vigorously to say, "No."

When they finally examined the thigh laceration it appeared to need surgery. When the patient was in recovery her mother came in. She said she did not believe the story about the horse; the husband had assaulted her daughter. She was told to call the police.

The hospital's nurses gave the victim the chance to admit what really happened, offered her referrals to outside resources, provided an opportunity to contact law enforcement and suggested she did not need to leave the hospital with him.

The hospital had no legal authority or responsibility to keep the victim from leaving the hospital with her abuser and is not liable for what happened later.

SUPREME COURT OF INDIANA
November 30, 2009

Two hospital security guards cornered the husband and searched him for weapons. While that was going on a nurse got with the patient and told her she did not have to leave with him.

The patient just insisted her prescription be changed from Darvocet to OxyContin and left with her husband.

A few blocks from the hospital the husband shot and killed her with a gun the security guards did not find.

The Supreme Court of Indiana dismissed the lawsuit the woman's family filed against the hospital.

The hospital's nursing and security staff did everything they reasonably could have under the circumstances. Ill advised as it was, the patient's decision to leave with her abuser came within the parameters of patient autonomy. **McSwane v. Bloomington Hosp., 916 N.E. 2d 906 (Ind., November 30, 2009).**