

Drug-Seeking Behavior: Patient Was Not Defamed By Chart Notes.

The patient came to the emergency room complaining of sinus headaches and stating that the Motrin she was taking was not relieving her pain.

Prescriptions for Flonase, Zantac and Percocet were given to her. She reportedly threw away the Flonase and Zantac prescriptions, kept the one for Percocet, blurted out in front of the nurse, “This is the only one I need,” and abruptly left the hospital without allowing the nurse to finish her discharge instructions.

The nurse charted what happened.

Eight days later the patient showed up at the same facility’s outpatient ENT clinic complaining of “life threatening” pain. The physician reviewed the chart entry from the recent ER visit and suggested she get some more Flonase and finish the rest of the Percocets she still should have had. The patient got mad and stormed out.

An hour later she was back in the emergency room complaining of a headache and stating that the only relief for the

pain was Percocet. The physician, strongly suspecting drug-seeking behavior, decided not to prescribe any Percocet and noted in the chart his suspicions of drug-seeking as the reason for his decision.

The patient sued the facility, claiming that the nurse’s and doctors’ notations in her medical chart amounted to defamation of character. The Court of Appeals of Ohio ruled the case should be dismissed.

First and foremost, the chart notes concerning the patient’s actual behavior were true. Truth is a complete defense to a legal action for defamation.

Secondly, publication of a defamatory statement is also a necessary legal element for defamation of character. Publication does not occur as long as the notations in a patient’s medical chart, albeit disparaging, are kept confidential within the medical facility so that only facility employees or staff members are able to read what others have written. **Outlaw v. Werner, 2009 WL 1419496 (Ohio App., May 21, 2009).**