

Emergency Evacuation, No Emergency Plan: Nursing Home Resident

When Hurricane George threatened to make landfall near the New Orleans metro area in the Fall of 1998 the civilian authorities ordered an evacuation.

A nursing home in the metro area did not have an emergency preparedness plan. Buses were hastily chartered to come and take the residents to a shelter in Baton Rouge, safely inland from the Gulf.

Bedridden residents had to ride sitting up. Water, cookies and snacks were stored in the bus's luggage bay even though some of the residents were on special diets and had to be fed. The air conditioning only worked properly when the bus was moving and the bus spent hours stalled in the massive traffic jam of vehicles fleeing New Orleans. When they got to Baton Rouge one of the residents, who was on a special diet, was dead.

The nursing home did not have an emergency preparedness plan that had been approved by local authorities.

While evacuating the residents on chartered buses from New Orleans to Baton Rouge before a hurricane, one of the residents died.

COURT OF APPEAL OF LOUISIANA, 2001.

The Court of Appeal of Louisiana upheld charges of a Class C violation of the state's regulations for nursing home licensure standards.

The court did not elaborate in detail specifically what a nursing home is required to do by way of emergency contingency planning. In re Maison Deville Nursing Home, 797 So. 2d 728 (La. App., 2001).

Suicide Victim Resuscitated, Treated: Court Dismisses Suit Against Caregivers.

The patient's sister called 911 after the patient shot herself in the head. The EMT's transported her to the hospital. The sister arrived with a document she said was the patient's living will and demanded life saving surgery be stopped, but treatment was continued.

She was on a respirator for six days, then successfully weaned. She has permanent brain injuries and will need lifetime nursing home care.

In the absence of a valid advance medical directive or a physician's order not to resuscitate or a court order, there is no right to sue healthcare providers for prolonging a patient's life.

The living will produced by the patient's sister had only one witness signature. State law requires two.

Even so, the document did not clearly indicate the patient's expressed wishes for this particular situation.

NEW YORK SUPREME COURT,
APPELLATE DIVISION, 2001.

The sister sued the hospital. The New York Supreme Court, Appellate Division, dismissed the case.

A conscious mentally competent adult can refuse any treatment, even life saving treatment.

But healthcare providers cannot be sued for treating an unconscious patient who has no valid advance directive. Haymes v. Brookdale Hospital Medical Center, 731 N.Y.S.2d 215 (N.Y. App., 2001).

Alzheimer's: Court Refuses To Honor Exculpatory Clause After Patient Elopes.

An elderly patient was admitted to a nursing home by his siblings after repeated bouts of confusion and forgetfulness. He was never formally diagnosed by a doctor as having Alzheimer's disease.

The nurses took their eyes off him only five minutes and he was gone. They called the police and started looking for him. A police helicopter found his body in a nearby field four days later.

In general there is no problem with an exculpatory clause in a contract, where one party agrees to relieve the other party of liability for future acts of negligence, assuming that is the intent of both parties and their intent is clearly stated in the contract.

A court will not honor an exculpatory clause in a nursing home admission contract after a resident with Alzheimer's wanders away and is injured.

MISSOURI COURT OF APPEALS, 2001.

The Missouri Court of Appeals did not rule that the nursing home was negligent. It ordered a new trial because the lower court prejudiced the jury by letting them see the admission contract with an exculpatory clause in the event a resident left without permission. Gates v. Sells Rest Home, Inc., 57 S.W. 3d 391 (Mo. App., 2001).