

Guardianship Imposed: Nursing Home Not At Fault.

The patient was involuntarily committed for short-term psychiatric observation and a legal guardian was appointed against her will to take control of her affairs upon her return to the nursing home where she had been residing.

After she returned to the nursing home she filed a complicated lawsuit against the nursing home, her physician, the county mental health professionals and the psych hospital where she was taken.

No False Statements

No Legal Liability

The California Court of Appeal, in an unpublished opinion, ruled the nursing home was legally immune from a civil lawsuit unless its staff made false statements in support of the plan to institutionalize the patient.

The nursing home staff phoned the patient's doctor and told her she was attempting to wheel herself out of the facility. The doctor took it from there, calling the mental health authorities. The nursing home acted properly in all respects, the court said. **Skobin v. County of Los Angeles, 2004 WL 1843310 (Cal. App., August 18, 2004).**

Excessive Force Alleged: Court Clears Psych Nurse.

If the nurse had twisted the patient's arm, forcibly pushed him to the time-out area and slammed him against the wall while he got out his key and unlocked the door, that would have been excessive force.

The medical evidence fails to support any claim the patient had any injury to his arm or shoulder, let alone that an injury resulted from excessive force.

When an angry and agitated psychiatric patient acts out aggressively in a group setting it is appropriate for the nurse to de-escalate the situation. The nurse can take the patient by the arm and escort the patient to a secure area for some time out, in the interest of protecting patients and other staff.

CALIFORNIA COURT OF APPEAL
UNPUBLISHED OPINION

The patient had been diagnosed as a paranoid schizophrenic. He went to one hospital to obtain his medical records and threatened a nurse when she told him they did not have them. As a result he was taken to another hospital for a 72 hour involuntary psych hold.

In that hospital's ICU a phlebotomist was trying to draw blood to assay his medication levels. A psych nurse came in to assist. For the previous two days the patient had been verbally abusive toward the same psych nurse. This time he spit in the nurse's face.

To calm him down and to protect other patients and staff the psych nurse placed one arm under his elbow and put his other elbow under the patient's biceps and walked him to a quiet area to calm down. He had to hold the patient against the wall while getting out his key to unlock the quiet area.

Patient Was A Threat To Others

The phlebotomist later testified she was glad the nurse intervened as she felt threatened by the patient's behavior and believed he was a potential threat to other patients standing by to have blood drawn.

The California Court of Appeal, in an unpublished opinion, threw out the patient's claim of excessive force alleged in his lawsuit filed against the nurse and his own psychiatrist. **Gregovich v. Berger, 2004 WL 1784749 (Cal. App., August 11, 2004).**

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