

## Suicide: Gun Brought Onto Psych Unit, Patient Was Not Searched Returning From Five-Hour Pass.

The deceased was a patient on the hospital's locked behavioral health unit for two weeks before she was released off the unit for a five-hour pass.

On her return she and her personal belongings were not searched.

The patient shot and killed herself on the unit the next day.

She had hid a handgun and some ammunition in a folded pair of jeans and a jean jacket she brought back with her.

The gun and ammunition were also not discovered during routine daily room searches that day and the next.

Hospital policy for the locked behavioral unit required a search of any new or returning patient's person and any personal belongings brought onto the unit, as well as daily searches of patients' rooms, but hospital policy was not followed in this instance.

The Court of Appeals of Wisconsin upheld a lower court's preliminary ruling that the husband could sue the facility for wrongful death due to ordinary negligence and did not have to file suit for medical malpractice. Snyder v. Injured Patients and Families Compensation Fund, 2009 WL 1457752 (Wis. App., May 27, 2009).

---

***This is an ordinary negligence case, not medical malpractice.***

***If this were a malpractice case the husband would need expert testimony to establish the standard of care for searching the person and personal belongings of a patient returning from a day pass to a locked behavioral unit.***

***In an ordinary negligence case, on the other hand, the jurors are allowed just to use their own judgment to decide whether or not the caregivers' actions were appropriate. Expert testimony is not required.***

***From the standpoint of courtroom tactics, an ordinary negligence case is much more likely to produce a jury verdict favorable to a patient or a deceased patient's family.***

COURT OF APPEALS OF WISCONSIN  
May 27, 2009

---