

# LEGAL EAGLE EYE NEWSLETTER

June 2005

*For the Nursing Profession*

Volume 13 Number 6

## Hospital E.R. Restrains Combative Patient: Court Throws Out Excessive-Force Lawsuit.

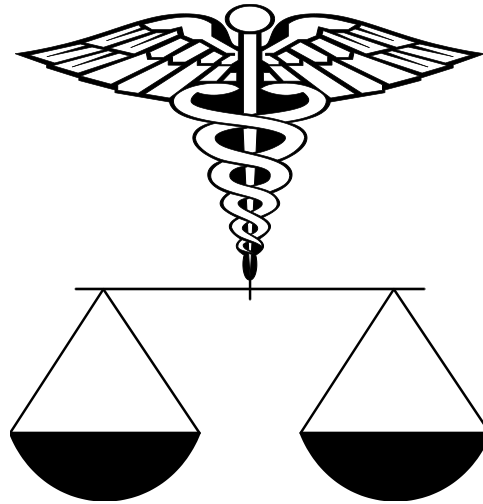
The patient was brought to the hospital's emergency room at 10:00 a.m. on a Sunday morning. His blood alcohol level was still twice the legal limit for driving under the influence.

Late Saturday night, while extremely intoxicated and under the influence of marijuana, he had put his arm through a glass window while fighting with a friend. He sustained severe lacerations as well as possible closed-head injuries.

The patient himself had no memory of the events in the emergency room. The only evidence was the testimony of hospital personnel and the hospital's security videotapes.

The Chief Judge of the US District Court for the Western District of Kentucky reviewed the testimony and the videotapes carefully before rendering a decision.

The patient was belligerent and uncooperative. He was using foul language and racial slurs. He had to be moved to an isolation room, with its own video surveillance system. After he began removing the dressings from his lacerated arms he was placed in six-point restraints on a gurney. When he began spitting, a biohazard hood was placed over his head and taped in place by a hospital nurse.



***Every person is entitled to proper medical care and humane treatment even if their own conduct makes it more difficult.***

***Hospital personnel are entitled to take reasonable measures to facilitate care, to protect patients from self-destructive acts and to treat a patient without fear of injury.***

UNITED STATES DISTRICT COURT  
KENTUCKY  
April 26, 2005

Late Sunday afternoon, after he calmed down, his injured hands were carefully sutured by a hand surgeon and a head CT scan could be done which was negative for trauma.

### **Lawsuit Thrown Out**

As the court pointed out, the patient arrived at the hospital with obvious and potentially serious injuries. The hospital had a legal duty to care for him despite his belligerence.

Whether or not he consented to treatment was a moot point. Consent to treatment is not required in a medical emergency. A medical emergency exists when the patient needs care but is not mentally competent to make an informed judgment for his own well-being.

After treatment began his actions showed not just an inability to follow instructions but an inability even to comprehend the instructions he was being given. His own conduct posed a danger to himself, i.e., he unwrapped his bandages and assaulted the medical personnel who were trying to help him.

There was no evidence of any intent by the hospital's personnel to harm the patient, only to restrain him for his own safety so that he could be treated.

**Taylor v. University Medical Center, Inc., 2005 WL 1026190 (W.D.Ky., April 26, 2005).**

**Inside this month's issue ...**

**June 2005**

**New Subscriptions  
See Page 3**

**Emergency Room/Combative Patient - O.R./Lap Sponge Count  
Labor Relation/Nurses' Strike Illegal - FDA/West Nile/Blood Donors  
Sexual Harassment - Patient Abuse - Disability Discrimination  
Family And Medical Leave Act/Nurse's Adult Child  
Breast Cancer/Nurse Is Entitled To Reasonable Accommodation  
Nurse As Expert Witness - Post-Operative Nursing Care  
AV Fistula/Accidental Exsanguination - Continuous Passive Motion  
Patient v. Patient Assault - FDA/Pilot Drug Watch Info Program**