

Assault & Battery: Court Sees No Evidence.

Hospital policy prohibited O.R. personnel from wearing artificial nails. A certain surgical tech had already been caught breaking the rules more than once.

The O.R. nursing manager was responsible for enforcing hospital policies. She confronted the tech and demanded the tech take her hands out from under a blanket so she could look at her nails.

When the tech refused, the nurse manager reached under the blanket and grabbed the tech's right wrist. There was no indication from the court record that the tech was injured.

The tech sued the nurse manager for assault and battery. The New York Supreme Court, Appellate Division, refused to rule in favor of the tech's motion for summary judgment.

Assault and battery is defined as intentional bodily contact that a reasonable person would find offensive or which places the alleged victim in imminent apprehension of bodily harm.

The Court ruled the tech had no evidence of any of these basic legal elements of assault and battery and thus there was no reason to require the nursing manager to justify her actions. **Gabriel v. Scheriff**, ___ N.Y.S.2d ___, 2014 WL 1041687 (N.Y. App., March 19, 2014).

Involuntary Psychiatric Hold: Court Dismisses Patient's Lawsuit.

When told she was going to be held overnight the patient started yelling and became combative and demanded to see the E.R. physician again.

The E.R. physician told her he and the other E.R. staff members believed she needed further treatment.

When told of hospital policy that she had to be examined bodily and change into hospital scrubs, she refused to cooperate and demanded to see a copy of the hospital's policy.

She was warned she would be forcibly held down and changed into hospital scrubs if she continued to refuse.

The two male police officers held her while a female nursing assistant changed her clothes. Then she was given anti-anxiety meds and sent to the psych unit.

UNITED STATES DISTRICT COURT
OREGON
February 23, 2014

The patient at first agreed to let the police take her to the E.R. for a psychiatric evaluation.

In the E.R. she admitted she had had four glasses of vodka and twice that evening had held a gun to her head and told her husband she wanted to kill herself.

The E.R. physician decided to initiate an involuntary psychiatric hold and told her she was going to be kept overnight.

Hospital policy required any patient admitted through the E.R. to be searched for medications and sharp objects, inspected over the entire body for signs of injury and to change or be changed from street clothes into hospital attire.

The patient, now being involuntarily held, refused to allow a skin-search by a female hospital nursing assistant and would not change into hospital scrubs, so it was done forcibly but without injuring her.

The patient was released the next morning after it was determined she was no longer a danger to self or others.

Hospital Not Liable

The US District Court for the District of Oregon found nothing wrong with the hospital's policy requiring a skin-search and a change into hospital clothing. It was permissible for hospital staff to use reasonable force once grounds existed for a psychiatric hold.

The Court ruled the hospital had no reason to know of the patient's past history of sexual abuse which she claimed exacerbated the emotional trauma of being forcibly stripped of her clothing. **Frank v. Cascade Healthcare**, 2014 WL 793073 (D. Ore., February 23, 2014).

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