

LEGAL EAGLE EYE NEWSLETTER

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Patient Suicide: Court Refuses To Blame The Nurses As Advocates For Their Patient.

The twenty-seven year-old patient had been under a physician's care for some time for depression and anxiety for which he sometimes took medication.

He started having hallucinations two weeks before he came to the emergency department.

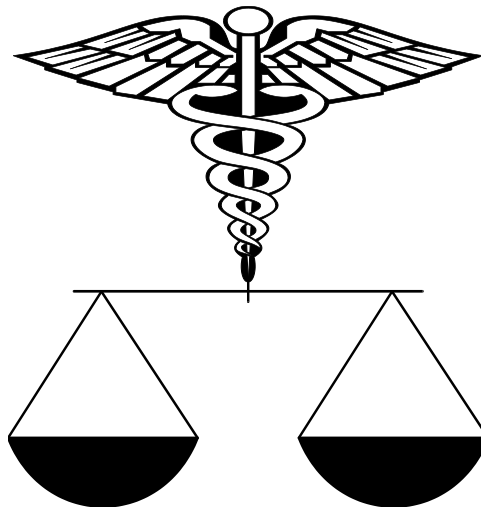
His mother had come to stay with him. She phoned his father, who was a physician, and the father phoned the hospital and spoke with a physician whom the father believed was the on-call psychiatrist.

The physician at the hospital told them to get the patient in to the emergency room.

When he was brought to the emergency department the patient told the triage nurse and another nurse that he was hallucinating and hearing voices and that his head was heavy.

After the nurses obtained the patient's history and noted his current complaints in the chart the emergency physician saw the patient. The physician diagnosed Obsessive Compulsive Disorder and sent the patient home with an appointment at an outpatient mental health clinic two days later.

The father decided to take his son to a university hospital out of state. On the ride there the patient jumped out of the moving car and killed himself.



What the patient's family's civil lawsuit expected of the hospital's nurses was outside the scope of nursing practice as defined by state law.

A nurse's legal responsibility to advocate for the nurse's patient does not allow or require a nurse to practice medicine by countermanding a physician's faulty decision and taking control of the case.

COURT OF APPEALS OF GEORGIA
March 14, 2017

The Court of Appeals of Georgia dismissed the family's allegations of negligence by the nurses but not the allegations of medical malpractice by the emergency physician.

The family's lawsuit alleged the nurses had a legal duty as advocates for their patient to go against the physician's discharge order which was based on a faulty medical diagnosis and take control of the patient's care.

The Court dismissed that allegation because it would go beyond the scope of nursing practice for the nurses as patient advocates to decide that the medical diagnosis was incorrect and direct the medical care themselves.

The legal reasoning for the Court's ruling came from comparing the state laws that define separately the scope of medical and nursing practice.

Nurses have a duty to advocate for their patients when they believe that the physician's care is incorrect and presents a risk of harm to the patient.

However, it would violate the legal definition of nursing practice to penalize a nurse with liability in a civil lawsuit for not going beyond the legal boundaries of nursing practice by undertaking actions which amount to the practice of medicine. ***Everson v. Phoebe***, ___ S.E.2d ___, 2017 WL 1013606 (Ga. App., March 14, 2017).

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