

Involuntary Discharge Of Nursing Home Resident: Facility Acted Properly, Court Rules.

Violent conduct and verbal abuse of other residents are grounds for transferring or discharging a nursing home resident against the resident's will. In fact, an extended care facility risks liability for keeping a resident who poses a threat of harm to other residents.

An extended care facility cannot keep a resident whose aggressive behavior poses a threat to other residents.

On the other hand, a nursing facility cannot involuntarily transfer or discharge a resident without strict compliance with all of the procedures mandated by state and Federal regulations.

SUPREME COURT OF IOWA, 1997.

But it is hardly that simple, as shown by a recent case from the Supreme Court of Iowa. State and Federal regulations carefully safeguard the rights of residents of extended care facilities. For a resident to be transferred or discharged involuntarily, even for compelling reasons, the law must be followed to the letter.

An extended care facility should consult knowledgeable legal counsel. Written notice must be given, to the resident, to a responsible party, to a state agency or ombudsman and others. The resident has a right to social work counseling and a written plan of action. The resident can ask a court to oversee that his or her rights are being honored or to negate the whole process if they are not. ***Robbins vs. Iowa Dept. of Inspections***, 567 N.W. 2d 653 (Iowa, 1997).

Psych Nursing: Vulnerable Patient Can Sue Nurse For Failing To Report Abuse By Psychiatrist, Court Says.

A nurse must report a psychiatrist's sexual abuse of a vulnerable patient.

An adult female receiving psychotherapy in a psychiatrist's office for dissociative identity disorder or multiple personality disorder is a "vulnerable adult" as that phrase is defined by law.

It is not necessary for an adult patient to be hospitalized in an inpatient setting to be deemed "vulnerable" by the law.

A vulnerable adult is one who, because of a psychiatric illness or another reason, is unlikely or unable to report abuse.

Every licensed healthcare professional has a strict legal duty to report abuse of a vulnerable adult promptly to the proper authorities.

A nurse who fails or neglects to report abuse of a vulnerable adult patient, among other legal sanctions, can be sued in civil court by the vulnerable adult for compensation for the physical or emotional harm the adult has experienced because of the nurse's inaction.

COURT OF APPEALS OF MINNESOTA, 1997.

The nurse did rounds with her employer, a psychiatrist, at the hospital, sat in on therapy sessions with patients and took notes, and saw his patients herself to administer and monitor their medications.

The nurse knew the psychiatrist had struck up a personal and sexual relationship with at least one female patient which lasted more than four years. Two other patients were the ones who actually sued the psychiatrist and the nurse. The nurse did not know directly the psychiatrist was at the same time also abusing these two patients, but that did not make any difference to the Court of Appeals of Minnesota.

The court ruled the nurse understood correctly it was her duty under the law to report a physician who physically, emotionally, verbally or sexually abused a vulnerable adult patient. The nurse was not correct, however, according to the court, in believing that a "vulnerable adult," as defined by law, is one who is receiving inpatient mental health treatment.

The court stated that "vulnerable" means an adult who is unlikely or unable to report abuse. A patient in therapy for mental illness is by law a vulnerable patient. This is especially true for a patient with multiple personalities. A therapist, as this psychiatrist had done, can call up one of the patient's personalities, abuse the person as that personality, intimidate or deceive that personality to remain silent, then summon back another personality before ending the session, the court pointed out.

The court also ruled the nurse was wrong for not reporting the physician's obvious alcohol and cocaine impairment. This became relevant in the patients' civil lawsuit because this impairment clouded his judgment and furthered his abuse of his patients, the court said. ***Wall vs. Fairview Hospital and Healthcare Services***, 568 N.W. 2d 194 (Minn. App., 1997).