

Emergency Psych Hold: Patient In Restraints Must Be Constantly Supervised, Court Rules.

The patient had been under psychiatric care. He was brought to the emergency department of a county hospital on the order of a designated professional because he was mentally ill and was conducting himself in a manner likely to result in serious harm to himself or others.

On arrival in the emergency department he was assessed by a nurse. The nurse placed him in wrist restraints until he could be seen by a physician.

The nurse made the decision to apply restraints without a physician's order because the patient was being committed involuntarily, appeared intoxicated and was threatening to leave.

Nurse Applied Wrist Restraints No Physician's Order

According to the New York Supreme Court, Appellate Division, the nurse's judgment at this point was sound and she was legally justified in starting restraints without a physician's order.

County hospital policy and state law permitted the use of restraints in emergency situations when a physician was not immediately available, to the extent necessary to prevent the patient from injuring himself or others in the judgment of the most senior non-physician staff on duty.

Hospitals have a legal responsibility to protect their patients from injury, even self-inflicted injury. The responsibility is measured by the nature and extent of the patient's mental illness as understood by the hospital's professional staff.

There is no responsibility in general to monitor patients constantly twenty-four hours a day.

However, it is very different when a patient is being held in restraints in an emergency situation. Such a patient is entitled to constant supervision.

The phrase "constant supervision" in this context means the patient must be kept in view continuously so that something can be done immediately if the patient tries to elope or harm himself.

This patient was there for emergency psych care, depressed and intoxicated.

NEW YORK SUPREME COURT
APPELLATE DIVISION
July 3, 2003

Constant Supervision Required During Emergency Restraint

However, the court faulted the hospital for not providing constant, continuous one-on-one supervision as required by hospital policies and state law when a psych patient is being restrained in an emergency awaiting a physician's examination.

The court ruled the nurse was wrong to interpret the phrase "constant supervision" as meaning only that the patient must be kept where he can be seen. On the contrary, one-on-one direct observation is required in this context.

Patient Injured Jumping From Balcony Hospital 65% at Fault

As a general rule hospitals have the legal duty to prevent patients from inflicting harm on themselves. On the other hand, hospitals are not automatically liable any time a patient commits self-harm. Legal liability is a case-by-case judgment after the fact based on the appropriateness of the interventions that were ordered and carried out in light of how realistically and competently the nurses, physicians and others assessed the patient.

This patient, while unobserved, removed his own wrist restraints and jumped from a hospital balcony either trying to elope or trying to harm himself.

The jury's verdict held the hospital 65% responsible and the patient himself 35% responsible for his injuries. A disturbed mental patient can legally be held responsible for his own negligent acts, the court pointed out in upholding the jury's ruling. **Marvel v. County of Erie**, __ N.Y.S.2d __, 2003 N.Y. Slip Op. 15822, 2003 WL 21513056 (N.Y. App., July 3, 2003).

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