

Labor Law: Charge Nurses Are Not Supervisors.

A skilled nursing facility balked at bargaining with the union on the grounds that the bargaining unit the union claimed to represent included the charge nurses and nursing shift supervisors who, the facility claimed, were supervisors rather than rank-and-file employees and did not belong in the bargaining unit.

The US Court of Appeals for the District of Columbia Circuit disagreed with the facility's position and ordered it to bargain in good faith with the union.

Supervisors Use Their Own Independent Judgment In Meting Out Employee Discipline

Charge nurses were responsible for assigning patient care responsibilities, for overseeing tasks being carried out and for mediating minor day-to-day disputes.

However, when a disciplinary matter came up the charge nurse could only gather the facts and refer the situation to the director of nursing for a final decision. The charge nurse then could only enforce the disciplinary decision made by the director.

The charge nurses did not have the requisite personal authority over discipline of subordinates to qualify them as supervisors as that term is used in labor law. **735 Pike v. NLRB**, 2012 WL 1138773 (D.C. Cir., April 2, 2012).

LEGAL EAGLE EYE NEWSLETTER
For the Nursing Profession
ISSN 1085-4924

© 2012 Legal Eagle Eye Newsletter

Published monthly, twelve times per year.

E. Kenneth Snyder, BSN, RN, JD
Editor/Publisher
PO Box 1342
Sedona AZ 86339
Phone (206) 718-0861

kensnyder@nursinglaw.com
www.nursinglaw.com

Involuntary Psych Medication: Court Dismisses Patient's Case.

If the hospital complied with all the legal requirements for involuntary hospitalization and forced medication, the patient has been afforded due process of law and has no right to sue for violation of her civil rights.

Administration of medications over the patient's objections in this case was expressly authorized by a court order issued following a hearing and an adjudication that the patient was not competent to make her own decisions about her medical care.

That adjudication of the patient's incompetence precludes her from re-opening the issue later by turning around and suing her caregivers for damages. The patient and her legal representative already had their chance to argue that point.

UNITED STATES DISTRICT COURT
NEW YORK
April 12, 2012

The patient sued the hospital along with a psychiatrist and a psychiatric nurse practitioner employed by the hospital who were involved with her care during her involuntary hospitalization.

Her lawsuit sought damages for the fact she was administered Risperdal despite her objection that that medication is not appropriate for a patient like her who is also taking blood-pressure medication and an antidepressant.

The inappropriate combination of medications, she claimed, caused her to experience untoward side effects in the form of vomiting, shaking and twitching movements.

The US District Court for the Southern District of New York dismissed the case.

Mental Hygiene Law Was Strictly Followed

The Court noted that the hospital strictly adhered to the state's mental hygiene law and ruled that that fact precluded the patient from later being able to sue her caregivers for deprivation of her rights.

The same day the patient was taken into custody, and before she was administered antipsychotic medication, she was given notice of her right to request a court hearing to determine if she could be required to stay at the hospital for fifteen more days and be medicated.

At the hearing a judge listened to the medical testimony, concluded from the testimony that the patient was not able to make her own decisions and gave the hospital authority to make her take Risperdal and Prozac. **Spencer v. Bellevue Hosp.**, 2012 WL 1267886 (S.D.N.Y., April 12, 2012).

Clip and mail this form. Or order online at www.nursinglaw.com/subscribe

Print \$155/year _____ Online \$120/year _____ Phone 1-877-985-0977
Check enclosed _____ Bill me _____ Credit card _____ Fax (206) 440-5862
Visa/MC/AmEx/Disc No. _____
Signature _____ Expiration Date _____

Name _____
Organization _____
Address _____
City/State/Zip _____
Email (If you want Online Edition*) _____

*Print subscribers also entitled to Online Edition at no extra charge.
Mail to: Legal Eagle Eye PO Box 1342 Sedona AZ 86339