

Psychiatric Patient Is Assaulted: Court Dismisses Case.

Assessment of the mental and physical capacities of the attacking patient and the patient victim is not something in the common knowledge of lay persons sitting on a jury.

Determining whether and how to restrain and/or supervise potentially dangerous mental patients requires professional training and understanding of the patients' diagnoses and medical histories.

Expert testimony is required to determine whether the victim's medical and nursing caregivers were negligent under the circumstances of this case.

The court has no choice but to dismiss this case for failure of the victim's family to file a certification with the court that expert testimony has been obtained to support the case.

COURT OF APPEALS OF TENNESSEE
July 27, 2016

One resident of a state psychiatric facility attacked another resident and inflicted fatal injuries.

The family of the victim sued the corporations which had contracts to provide medical and nursing personnel for the facility.

Physicians' orders had been written for one-on-one supervision of both residents. Nevertheless the perpetrator had been allowed to ambulate on the unit without anyone directly watching him.

The perpetrator was reportedly also known by the staff of the facility to be a violent criminal with a history of attacking other persons without provocation.

No Expert Testimony Court Must Dismiss the Case

The Court of Appeals of Tennessee dismissed the lawsuit for failure of the victim's family to comply with a state law requiring a sworn written certification along with the filing of the lawsuit that expert testimony exists to support the case.

The Court ruled that professional standards for physicians, nurses and nursing assistants to assess and monitor psychiatric patients who might pose a potential for harm to others, and likewise to assess and monitor patients who might be potential victims, is a subject outside the common knowledge of untrained lay persons.

It was not sufficient, in the Court's judgment, that one-on-one supervision had been ordered for both patients. What that meant is still a subject for an expert. **Newman v. Guardian, 2016 WL 4069052 (Tenn. App., July 27, 2016).**

Neonate Scalded: Court Dismisses Parents' Case.

The nurses were having difficulty maintaining a high enough body temperature for an infant in the neonatal nursery.

When the temperature dropped from 99.3° to 97.6° and then to 96.6° over the first half-hour after cesarean delivery, the nurses placed the infant in a radiant warmer and put a heated bag of water right next to his skin.

Over the next couple of hours the temperature rose to 98.6°.

However, when the hot water bag was taken away the infant had a large red area on his forearm and shoulder which began to blister after a couple more hours.

The nurses fully documented the injury and notified the physician. The infant was transferred to intensive care at another hospital and evaluated by a plastic surgeon. However, no further treatment was needed before discharge a week after birth.

The US District Court for the Eastern District of Michigan dismissed only the allegations in the lawsuit that applied to the parents. The statute of limitations has expired as to their right to sue.

Even though the lawsuit was filed ten years after the child's birth, his claims can still go forward. **Wang v. MidMichigan, 2016**

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

© 2016 Legal Eagle Eye Newsletter

Published monthly, twelve times per year.
Print edition mailed First Class Mail
at Seattle, WA.

Electronic edition distributed by email file
attachment to our subscribers.

E. Kenneth Snyder, BSN, RN, JD
Editor/Publisher
PO Box 4592

Seattle, WA 98194-0592
Phone (206) 718-0861

LEGAL EAGLE EYE NEWSLETTER PO BOX 4592 SEATTLE WA 98194-0592

(206) 718-0861 www.nursinglaw.com subscriptions@nursinglaw.com

Print \$155/year _____ Email \$120/year _____

Check enclosed _____ Bill me _____ Credit/Debit card _____

Visa/MC/AmEx/Disc No. _____

Signature _____

Expiration Date _____ CVV Code _____ Billing ZIP Code _____

Name _____

Organization _____

Address _____

City/State/Zip _____

Email for Email Edition* _____

*Print subscribers: provide your email and receive Email Edition at no extra charge.