

Suicide: Jury Rules Facility Not Liable.

The ninety year-old patient was brought to the psychiatric facility by his daughter because she feared he was going to commit suicide.

During his admission assessment the patient reportedly stated that he was thinking about suicide and planned to kill himself.

The psychiatrist decided to admit him and ordered fifteen-minute checks as a suicide precaution.

On a fifteen minute check the patient was found dead with one of his socks in his mouth, an apparent suicide.

The fifteen-minute checks ordered by the patient's psychiatrist were being carried out.

It was not reasonably foreseeable that the patient would die by ingesting and suffocating himself with one of his own socks.

DISTRICT COURT
TULSA COUNTY, OKLAHOMA
January 27, 2010

The jury in the District Court, Tulsa County, Oklahoma ruled the psychiatrist and the staff at the mental health facility were not guilty of negligence.

Bad Outcome Does Not Prove Negligence

A bad outcome does not, in and of itself, equate with negligence if the patient's caregivers complied with the standard of care or if the unfortunate outcome was not reasonably foreseeable.

The jury accepted two arguments advanced by the facility in its defense.

First, fifteen minute checks were within the appropriate standard of care for this patient. Second, it was not foreseeable that the patient would use one of his own socks as the instrument of his own death. ***Smith v. Laureate Psychiatric*, 2010 WL 973477 (Dist. Ct. Tulsa Co., Oklahoma, January 27, 2010).**

Arbitration: Wife Signed Agreement As Patient's Agent.

The patient had to be admitted to a nursing home because of physical problems which made him unable to perform activities of daily living independently, such as bathing and dressing.

At the time of admission his mental status exam showed that he was alert and oriented despite his physical limitations.

The patient's sister arrived soon after the patient arrived via ambulance. However, the patient insisted that his wife come in to sign the admissions paperwork for him, which included an advance directive, receipt for information concerning resident's rights, Medicare and Medicaid forms and an arbitration agreement.

After the patient suffered cardiopulmonary arrest and died, possibly from choking on his food, a lawsuit was filed by the executor of his probate estate.

A mini-mental status exam was done as the patient was being admitted. The patient was found to be alert and oriented.

The patient had physical problems which made it impossible for him to hold a pen and sign his name.

The patient asked specifically for his wife to come in to sign the papers for him.

COURT OF APPEALS OF KENTUCKY
March 19, 2010

The Court of Appeals of Kentucky ruled it was not proper for the case to have been filed in civil court. The case belonged in arbitration, the Court said.

As a general rule a patient who is mentally competent must sign the arbitration agreement himself or the agreement is not valid. In this case, however, it was clear that the patient, who was mentally competent to appoint an agent, appointed his wife as his agent for the purpose of signing for him. The arbitration agreement was valid. ***Laurel Creek v. Bishop*, 2010 WL 985299 (Ky. App., March 19, 2010).**

Transfer: Patient Should Not Have Been Allowed To Bear Any Weight On Her Leg.

The physician's progress note indicated the eighty-one year-old patient inadvertently put weight on her left leg during a transfer, twisted it and heard a pop. The surgical internal fixation of her left femur fracture came apart and had to be redone.

The patient's chart referenced the injury only with hearsay in the physician's note to the effect an aide had said the patient was transferring off the bedside commode to her wheelchair when it happened.

The physical therapist had beforehand written a progress note that the patient had no control of her left leg during transfer maneuvers and required two-person maximum assistance.

The rationale for requiring two-person assists in all transfers was that this patient was not to bear any weight on her left leg.

She had fractured her left femur in a fall at home and had undergone open reduction and internal fixation at the hospital before being moved to the rehab facility.

COURT OF APPEALS OF TEXAS
March 18, 2010

The Court of Appeals of Texas accepted the patient's nursing expert's opinion that the patient's care at the rehab facility fell below the standard of care because the facility did not supervise its staff to ensure that the patient received competent assistance during transfers.

The Court threw out the facility's argument that a medical expert could not say definitively that undoing of the internal fixation was caused by weight bearing on the leg during a transfer. ***Clear Lake Rehab v. Karber*, ___ S.W.3d ___, 2010 WL 987758 (Tex. App., March 18, 2010).**