Might You or Your Employer Be Liable if a Patient Signs Out Against Medical Advice (AMA)?

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One of the recurring questions I have been asked during my years of practicing as a nurse attorney is whether a nurse would be held liable for a patient who leaves a health care facility against medical advice. Although state laws vary from state to state, the following case illustrates how the Dakota Supreme Court ruled in this instance when a patient left a hospital AMA.[1]

A thirty-eight-year-old male who was in a fight at a bar and sustained injuries to his throat and head drove himself to the hospital's ED. On admission to the ED, the nurse's notes detailed that the patient "has a normal mood and effect.....His mood appears not anxious. He does not exhibit a depressed mood. He expresses no homicidal and no suicidal ideation".

The patient complained of increasing pain in his neck and throat while in the ED. A CT scan was done and it was recommended that the patient be intubated "to protect his airway", which was done. The patient was also admitted to the ICU. Nursing documentation stated that the patient tolerated the procedure well and there were no complications.

After he was intubated, the patient received several sedatives—Propofol, Versed, and Fentanyl. After obtaining consent, a physician performed a bronchoscopy and it revealed that the patient's airway was not compromised. After being intubated for approximately eight hours, hospital staff extubated him and did not administer any further sedatives.

Shortly thereafter, the patient asked a nurse who was caring for him when he would be able to leave the hospital. The nurse told the patient that a physician would have to discharge him sometime during the week. The patient became distressed and began pulling at his heart rate monitor, his IV, and tubing. He insisted on leaving the hospital.

The nurse told him if he did leave, he would be leaving AMA and then asked the patient if she could call his physicians. The patient agreed. Two physicians were contacted by the nurse. One said he had no difficulty with the patient leaving AMA. The other wanted the patient to drink fluids before leaving, but the patient refused.

Since he could not be forced to drink fluids, the second physician approved the patient leaving AMA.

The nurse also contacted the patient's regular physician and his resident approved an AMA departure. The nurse told the patient that an appointment with his regular doctor was scheduled for the following week.

The nurse had the patient sign an AMA form and some additional paperwork. He did not take any of the paperwork with him. Nor did he accept help with his IV dressings after the IV was removed.

The nurse asked if she could contact his family to drive him home, but he said he would drive himself there. The nurse informed him that his ability to drive might be affected by the sedatives he was given, but he shrugged this advice off, saying he did not care and would drive himself anyway.

All of the above was documented in the nurse's notes, which also reflected that the patient was "agitated through this time".

After the patient left the hospital, he drove to his mother's home, took a bottle of alcohol, and drove to his home. At some point after leaving the hospital and arriving home, the patient drank the alcohol and overdosed on his HIV medication and aspirin. The then left his home and "brutally assaulted his neighbors".

The patient had no memory of the incidents but pleaded guilty to multiple charges related to the assaults. During the criminal trial, the court ordered a psychiatric evaluation.

The patient did have a history of depression, anxiety, and prior suicidal attempts. After the evaluation, the psychiatrist testified that at the time of the assaults, he was "mentally ill secondary to delirium from medication administration". As a result, the patient did not know the nature of the acts or that they were wrong. The court found the patient "not guilty by reason of mental illness".

The patient filed a suit against the hospital alleging that at the time of his discharge, he was suffering from substance-induced delirium and the hospital should have been aware of his "changed mental condition". He also claimed that the hospital failed to assess his mental condition after he insisted he was going to sign out AMA, and, as a result, he was a danger to himself and others. The patient also alleged he suffered economic and non-economic damages.

The hospital moved for Summary Judgment, claiming immunity under a state law that provides good faith immunity [from suit] to health care providers when they follow a patient's commands for his or her health care.

The trial court granted the hospital's Summary Judgment Motion, opining that there were no facts alleging "bad faith". The patient appealed that decision.

The Supreme Court of Dakota carefully analyzed the wording and the meaning of the applicable law. Of particular importance was whether the hospital conducted itself in "good faith" in order for the immunity to apply.

The Court relied on the depositions of those involved in the patient's care, include the nurse who cared for him at the time he insisted on leaving AMA.

Her conduct, her documentation in the patient's medical record, and her testimony all supported a prima facie case of good faith because she determined that the patient was capable of giving informed consent for his health care and that she honored the patient's demand to be discharged against medical advice. She did so, the Court pointed out, after notifying the patient's physicians, who agreed with his demand to be discharged AMA.

The Court stated that the evidence presented by the patient did suggest negligence but that evidence was not "material" which is required to deny a Summary Judgment Motion.

As a result, the Court held that the good faith immunity protection of the state's law applied in this situation and that there was no disputed issue of material fact that the hospital acted in good faith. The trial court, it continued, correctly granted Summary Judgment in favor of the hospital.

The nurse employed by the hospital exemplified not only ethical conduct when caring for this patient, she also met her legal obligations to him. The case's guidelines for your practice include:

1. Good documentation, which indicates good nursing practice, can make all the difference for success in court when a patient challenges how his or her care was handled;
2. An AMA discharge requires necessary forms to be signed by the patient who requests such a discharge;
3. Notifying all those involved in the patient's care by the nurse when he or she requests an AMA discharge is essential;
4. Know your facility's policy and procedures when a patient requests an AMA discharge;
5. Continual clinical assessment of the patient requesting an AMA discharge is vital;
6. Immunity statues are extremely helpful in avoiding a judgment against you or your facility, but the judicial process is still part of that final, favorable judgment;
7. Patient consent for care decisions should always be obtained when possible; and
8. Know your state's immunity statutes applicable to your practice.

FOOTNOTES

1. Klein v. Sanford USD Medical Center, 872 N.W. 2d 802 (S.D., 2015).

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