Was the Nurse's Conduct in Ordering Seclusion and Restraint Professionally Negligent?

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In the September 6th, 2017 Bulletin, I wrote about a case where a nurse and several psychiatric aides were found liable for their handling of an out of control patient. In yet another case, which follows, the charge nurse's management of an involuntarily admitted patient who was out of control is analyzed.

Steven Alt was involuntarily committed to a state mental hospital after he stated he had taken an overdose of Tylenol.[1] A psychiatrist employed by the hospital was assigned to treat Mr. Alt, and during the course of treatment discovered Alt was HIV positive. In addition, Alt was diagnosed with a mixed personality disorder with narcissistic and histrionic features.

Alt and his psychiatrist did not get along, nor did he get along with other staff members, often refusing to talk with them and calling them derogatory names.

The staff was working with Alt to secure a place for him to live and a job for him in the community, but Alt missed an appointment for a job interview. The psychiatrist and a social worker met with Alt and confronted him with the missed appointment and their belief that he was trying to "sabotage" his discharge. The meeting did not go well with angry words among all three.

Despite the unsuccessful meeting, the psychiatrist wrote a discharge order for the next day, documenting that the patient did not seem to be an acute danger to himself or others and no suicidal or homicidal thoughts were expressed by Alt during the meeting.

During the dinner hour, Alt threw his dinner tray against a wall in the ward. This conduct was reported to the nurse in charge, who ordered the patient to be placed in seclusion and restraints at 5:25 p.m.[1] The nurse called Alt's psychiatrist and he verbally ordered Alt be secluded and restrained for up to eight hours.

The psychiatrist went to see the patient in his room around 11:40 p.m. and the patient remained in four-point leather restraints throughout the night.

Upon his discharge, Alt filed a court case against the individual psychiatrist and officials at the hospital, alleging malicious prosecution, false imprisonment, and deprivation of his Constitutional and statutory rights (state tort claims act). Upon a Summary Judgment Motion by the defendants, all claims were

dismissed by the trial court and affirmed by the court of appeals.

Alt then filed a second claim under the North Carolina Tort Claims Act with the Industrial Commission (the original court of jurisdiction in North Carolina for such cases), alleging that the psychiatrist and the nurse "failed to comply with standards of practice in the psychiatric profession regarding the use of seclusion and restraints", resulting in emotional distress.

Defendants filed a Motion for Summary Judgment in this case as well, alleging that because the issue was resolved by dismissal in the first case, the doctrine of *res judicata* (bars a second lawsuit involving the same parties on the same claim) should apply.

Alt's claim was denied, but was later reversed by the Full Commission and the case proceeded to a hearing.

The Court reviewed the evidence of the Commission and affirmed its decision. The evidence clearly showed that the decision of the psychiatrist and the nurse to place Alt in seclusion and restraints was not in keeping with community standards of practice and was not justified by Alt's behavior, state rules or hospital rules.

The behavior of the nurse, the court continued, was motivated by Alt's name calling and her inability to get Alt to be compliant. As a result, her conduct was one of punishment, not treatment. The psychiatrist aided and abetted this punishment.

Moreover, the Court held, competent evidence existed that supported the defendants' non-compliance with standards of practice. Examples included the psychiatrist's notes that Alt was not suicidal or a danger to others, and the psychiatrist's note that Alt "may have seclusion and restraint for up to eight hours for 'out of control behavior' " and may be released when he can "contract for appropriate behavior and is calm".

Expert testimony by a psychiatrist indicated that throughout the psychiatric community, including North Carolina, seclusion and restraint "is an extreme measure used in terms of control of violence or suicidal behavior". He also opined that Alt's behavior did not fit into either of those two categories.

Finally, the expert testified that the psychiatrist and the nurse's decision not to release Alt within the first three hours of his seclusion and restraint was also a violation of the applicable standard of practice.

The Court concluded the nurse and psychiatrist breached the duty of care each owed to At and affirmed the Commission's decision. Their respective negligence entitled Alt to damages for the emotional injuries he experienced as a result of the restraint. Alt was awarded $5,000.00.

Nursing is a complex area of practice and requires careful decision-making when a patient is out of control. The Commission's monetary reward in this case was much less than the award granted by the Court in the September 6th, 2017 Bulletin. Even so, both illustrate the potential liability in this area of

nursing practice.

If you are a nurse, you should:

1. Model behavior that is consistent with your role as a nurse leader in the situation;
2. Carefully and rationally evaluate every patient who is not maintaining control and institute the best treatment for that patient;
3. Intervene quickly with out-of-control behavior so that the patient, staff, and other patients are safe;
4. Keep current with standards of practice in psychiatric nursing;
5. Carefully and consistently follow hospital polices and standards of practice when a patient needs to be secluded and restrained, and ensure the individual is carefully monitored; and,
6. Document all decisions concerning seclusion and restraint consistent with hospital policies and standards of practice.

FOOTNOTES

1. Alt v. John Umstead Hospital, COA96-416, Court of Appeals of North Carolina, January 21, 1997.