Intoxicated Patient in the Emergency Room

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In Kowalski v. St. Francis Hospital and Health Centers, the plaintiff walked into an emergency room showing “signs of severe intoxication, including red eyes, garbled speech, and a strong smell of alcohol.” Four hours later, he told a nurse that he wanted to leave the hospital, did so unsupervised, and was hit by a car. He then sued the hospital and ED physician for negligence and medical malpractice, alleging that his injuries were the result of the defendants’ failure to prevent him from leaving while he was still intoxicated. Plaintiff argued that his intoxication limited his capacity to the point that, for his own protection, the physician had a duty to prevent him from leaving the facility. The limited question presented to the Court was whether a hospital and its physicians have a duty to restrain an intoxicated patient who voluntarily enters an emergency room for treatment and later wants to leave.

The Court of Appeals found no liability for the plaintiff’s injuries, holding that the hospital and emergency department physician were under no obligation to prevent the patient from leaving as they “had no right, and therefore could have had no duty, to do so.” The Court found no statutory duty to restrain an intoxicated patient who voluntarily entered an emergency room. Citing the Mental Hygiene Law Section 22.09, which provides for involuntary confinement of individuals incapacitated to such an extent that “there is a likelihood to result in harm to the person or others,” the Court noted that the statute does not apply where a patient voluntarily presents himself at an emergency room. The Court also found there is no common-law duty to prevent an intoxicated patient from leaving an emergency room. Although there is some authority allowing a physician to restrain a patient, those steps may be taken only in extreme circumstances when a patient is in truly imminent harm, such as where a patient attempts to throw herself out of a window or is otherwise a severe threat to herself or others. In summary, the Court ruled, “…there can be no duty to do that which the law forbids. To restrain plaintiff on these facts would have exposed defendants to liability for false imprisonment.”

There is one aspect of the Court’s opinion, however, that may serve as a warning. The plaintiff argued that the defendant hospital was negligent in allowing him to leave the emergency room because that action violated its internal protocols. One month prior to this incident, the plaintiff had presented at the hospital’s emergency department while intoxicated and demonstrating suicidal tendencies. This prior episode implicated two internal hospital protocols, namely a policy of placing unstable patients on a “one-to-one watch” while in the facility and a separate policy that “potentially unstable patients by history will not be left unattended while in the emergency department.” During the incident underlying this case, the hospital left the patient alone and did not place him on a “one-to-one watch.” While the Court of Appeals did not find that there was any causal connection between the hospital’s failure to follow internal protocols and the plaintiff’s injuries, it did not elaborate on that point and seems to have limited that portion of its opinion to the specific facts of this case. In other words, the Court did nothing to foreclose the possibility of liability in a situation where a hospital or physician fails to follow internal procedures in a case such as this and the patient can show that the failure to follow protocols was a proximate cause of his injuries. Indeed, the decision was not unanimous and one of the Court of Appeals jurists dissented, finding that the issue of failure to follow protocols deserved additional scrutiny.

For a practicing emergency department physician faced with an intoxicated patient, particularly one with a history of mental instability or suicidal behavior, the takeaway message is clear: you may not restrain an intoxicated patient who presents voluntarily to the ED unless there is imminent risk of harm to him or others, and don’t forget to document that you and the nurses followed hospital protocol.

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Q: What is the obligation of an Emergency Department (ED) physician and hospital when an intoxicated patient leaves against medical advice? Are the ED physician and hospital liable for failure to restrain the patient if he is injured after he leaves the ED? The Court of Appeals, New York State’s highest court, recently answered that question in the negative.

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