

# MALPRACTICE VERDICTS

## Vacationing vs. abandoning

How to keep a little 'R and R' from landing you in court

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### Hospitalized patient hangs himself; estate blames vacationing psychiatrist

Los Angeles County (CA) Superior Court

Police took a 34-year-old man to an inpatient psychiatric facility after they found him walking naked on a city street. The hospital admitted him on a 72-hour involuntary hold because of his suicidal thoughts, although the psychiatrist did not believe he intended to kill himself. The patient had never attempted suicide before. The psychiatrist ordered treatment with risperidone and monitoring every 30 minutes.

Two days later, at the beginning of the psychiatrist's vacation, the hospital started a 14-day hold process. After 3 days, the on-call psychiatrist documented the patient's refusal to communicate and take medication, but the patient denied suicidal thinking.

After 3 more days, staff discovered the patient sitting unconscious on the floor next to the toilet, with his pants wrapped around his neck and tied to a grab bar. Staff attempted cardiopulmonary resuscitation and called paramedics, but the patient was dead.

The patient's estate claimed that the hospital and first treating psychiatrist did not take appropriate measures to prevent the suicide. It charged the hospital with negligence in failing to have a breakaway grab bar and claimed the original psychiatrist did not

adequately communicate the patient's status with the covering psychiatrist before leaving on vacation.

The defense claimed the patient was not at high risk for suicide and that the standard of care is to communicate information regarding high-risk patients to the covering psychiatrist. The original psychiatrist also claimed the patient was doing well when he left for vacation.

#### • The jury decided for the defense

#### Dr. Grant's observations

Patients and their families may feel abandoned in their psychiatrists' absence. But this absence does not legally constitute abandonment unless:

- a doctor-patient relationship exists
- the doctor terminates the relationship
- there is a need for continuing care
- termination lacks reasonable notice so arrangements for continuing care cannot be made.

Cases are selected by CURRENT PSYCHIATRY's editors from *Medical Malpractice Verdicts, Settlements & Experts*, with permission of its editor, Lewis Laska of Nashville, TN ([www.verdictslaska.com](http://www.verdictslaska.com)). Information may be incomplete in some instances, but these cases represent clinical situations that typically result in litigation.

continued

## Box

**When preparing for your vacation:**

- Ensure that a system for getting urgent information to covering psychiatrists is in place.
- Verify that the covering psychiatrist knows he or she is responsible for your patients in emergency distress—including interviewing, reviewing records, and documenting treatment. His or her role is not just to fill space until you return.
- Tell emergency-prone patients the dates you'll be unavailable and give them the contact information for the covering psychiatrist.
- Inform the covering psychiatrist about patients at high risk for suicide, decompensation, or hospitalization.

In this case, the first 3 conditions for abandonment are met. The psychiatrist, however, made other arrangements for continuing care by providing an on-call psychiatrist, making the fourth criterion inapplicable.

While travel is at times necessary, psychiatrists must ensure that emergency-prone patients have access to care in their absence (*Box*). You can delegate this responsibility to a covering psychiatrist, but choose him or her wisely. Selecting a physician you know is incapable of providing sound treatment is considered negligent. The primary psychiatrist cannot be held responsible for a substitute psychiatrist's negligence if the choice of substitute is viewed as a competent delegation.

## PROMISING NEW INVESTIGATOR AWARDS 2004-2005

The Neuroleptic Malignant Syndrome Information Service (NMSIS) announces a competition to recognize promising new investigators, based on a scholarly paper addressing **"New insights on psychotropic drug safety and side effects."**

Consistent with its mission to advance pharmacotherapy and patient safety, NMSIS offers these awards to promote education and research by early career psychiatrists. Two prizes of \$2,500 and \$1,500 will be awarded toward travel costs to attend the American Psychiatric Association annual meeting in May 2006.

- Papers should address specific issues related to the award theme and be no longer than 15 double-spaced, typed pages.
- Literature reviews, case reports, or original studies that are not in press or published are acceptable.
- Primary author must be a student, resident, fellow, or junior faculty member at or below the rank of assistant professor.
- Papers will be judged on originality, scholarship, relevance, and methodology.

Submit paper and curriculum vitae of the primary author to Diane Van Slyke, 11 East State Street, Sherburne, NY 13460, fax 607-674-7910, or via e-mail to [diane@mhaus.org](mailto:diane@mhaus.org). Deadline is Feb. 1, 2006.

Winners will be announced by March 1, 2006.