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Summary of Deboer v. Sr. Bridges of Sparks Family Hospital, Inc., 128 Nev. Adv. Op. No. 38

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(Aug. 9, 2012)¹

NEGLIGENCE/STANDARD – MEDICAL FACILITY NONMEDICAL FUNCTION

Summary

The Court considered, on appeal, what duty of care is owed by a medical facility when it performs nonmedical functions.

Disposition/Outcome

The Court concluded that when a medical facility performs a nonmedical function, the general negligence standards apply, thus, a medical facility has a duty to exercise reasonable care to avoid foreseeable harm as a result of its actions.

Factual and Procedural History

Gayle Savage (“Savage”) was admitted to Senior Bridges of Sparks Family Hospital, Inc. d.b.a. Northern Nevada Medical Center (“Senior Bridges”) and was diagnosed with mild to moderate dementia as a result of Alzheimer’s disease. Based on her condition, her doctor concluded that she needed a guardian to make medical and financial decisions for her.

One week after her admission to Senior Bridges, a Senior Bridges social worker met with Peggy Violat Six (“Six”), who agreed to care for Savage on the condition that when Savage is discharged, she execute a general power of attorney designating Six as her appointee for financial matters. Then, the Senior Bridges social worker provided Savage with a preprinted general power-of-attorney form, which Savage signed, giving Six control of Savage’s personal and financial affairs. A Senior Bridges’ notary public verified Savage’s execution and acknowledgement of the general power-of-attorney form. Savage was subsequently discharged into Six’s care, who allegedly exploited Savage by misappropriating her money, real property and other assets.

Based on Six’s actions, the Washoe County Public Guardian, in her capacity as legal guardian of Savage, filed a complaint against Senior Bridges for negligence. Senior Bridges responded with a motion to dismiss. The district court granted Senior Bridges’ motion to dismiss finding that Senior Bridges did not owe Savage a duty of care beyond the duty to provide competent medical care, and asserted that it would be fundamentally unfair to hold a medical facility liable for damages resulting from actions that occurred outside the scope of the healthcare-based relationship. Moreover, the court concluded that the harm of financial exploitation was not so “necessarily foreseeable” as to warrant imposing a duty of care on Senior Bridges. Lastly, the court expressed concern that recognizing a duty to assist patients with financial planning decisions would require medical facilities to employ financial planning experts and could potentially open the floodgates of litigation.

¹ By Bryan Schwartz

Discussion

Justice Cherry wrote the opinion for the unanimous three-judge panel. The Court first discussed that the district court inappropriately granted medical facilities full immunity from claims stemming from nonmedical injuries on its premises. The Court found that this did not conform to Nevada's negligence jurisprudence.² Thus, a healthcare-based corporation's status as a medical facility cannot protect it from other forms of tort liability when it acts outside of the scope of medicine. Thus, the Court establishes that medical facilities should be required to conform to normal standards of reasonableness under general principles of tort law when performing nonmedical functions.³

Medical facilities offer a variety of nonmedical functions, including aftercare planning with social workers, and must exercise reasonable care so as to not subject others to an unreasonable risk of harm when acting in roles unrelated to the practice of medicine.⁴ A social worker helping a patient to establish financial arrangements in effectuating that patient's discharge cannot be regarded as a medical function. Thus, since Savage's complaint is grounded in ordinary negligence, the district court erred in branding Savage's complaint as a medical malpractice claim.

In regards to Savage's negligence theory, the court concludes that a reasonable jury could conclude that the manner in which Senior Bridges discharged Savage foreseeably led to her financial injuries. Since Senior Bridges specializes in elderly care, a jury could reasonably determine that the facility should be particularly aware of concerns related to financial abuse of older, impaired patients. Further, Senior Bridges was on notice that Savage could be vulnerable to this type of abuse because it previously diagnosed her with dementia. The doctor had even said she could not make financial decisions for herself. Additionally, a jury could find that someone in Savage's condition could lack the cognitive ability to make financial decisions, including the activation of the power of attorney.

Thus, the Court found that it was possible, under the standard negligence framework, that Senior Bridges may have breached its duty of care to Savage by not acting reasonably in facilitating the power-of-attorney forms in furtherance of discharging her.

Conclusion

The Court concludes that the district court erred in dismissing Savage's complaint. Medical facilities must adhere to the general negligence standard when performing nonmedical functions. Therefore, there are factual issues that exist to determine whether Senior Bridges acted negligently in overseeing Savage's release from its medical facility.

² *Moody v. Manny's Auto Repair*, 110 Nev. 320, 333, 871 P.2d 935, 943 (Nev. 1994) (discussing that all people in society have a general duty of reasonable care when another is injured).

³ The Court noted that jurisdictions including Connecticut, Louisiana, Michigan, New York, and Tennessee have developed similar standards.

⁴ *Wright v. Schum*, 105 Nev. 611, 614, 781 P.2d 1142, 1143 (Nev. 1989).