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Healthcare Providers Face Potential Liability to Third-Parties For Acts of Their Patients

Two recent appellate decisions in New York have expanded the potential sphere of plaintiffs that can bring suit against a healthcare provider for medical negligence. These decisions go well beyond the obvious physician-patient relationship and now impose a duty of care on healthcare providers to the public at large.

In the case of *Oddo v. Queens Village Committee for Mental Health*, the Appellate Division, First Department held that the Defendant, an in-patient drug treatment center, could be found liable to a victim who was stabbed by a patient that was discharged from the facility about a half hour earlier due to violent behavior. The Court ruled that the treatment center had a duty of care to the general public. The Court went on to state that the applicable test was whether "the defendant has sufficient authority to control the actions" of its patients. However, the facts of that case are quite specific and not applicable to most common instances of medical care. In *Oddo*, the patient had been released into police custody but the police were not instructed that he was to be held in a secure facility so that parole authorities could be notified. He was not supposed to be allowed to go free. The Court found the facility negligent for failing to provide these instructions to the police which led to the violent attack on the plaintiff.

Most recently, the notion of liability to third parties was extended by the Court of Appeals, the highest court in the State, in the case *Davis v. South Nassau Communities Hospital*. The case involved a patient who was treated in the defendant's emergency room and released on certain medications. About 35 minutes later, he was involved in a motor vehicle accident, purportedly caused by the medications he was put on in the emergency room earlier. The Court ruled that the injured party could sue the Hospital for his injuries as a result of their alleged negligence in discharging the patient. This holding essentially extends a healthcare provider's liability beyond the patient and identifiable individuals, such as family members, that foreseeably may be affected by a treatment decision, to include unknown members of the general public.

At Academic, we are continuing to monitor the emerging caselaw on this subject and will continue to update our insureds on important developments in this area. In the meantime, we hope that this information will lead to discussions within your departments and practices on how to address these issues.