Viral-Video Arrest of Nurse Refusing to Draw Blood From Unconscious Patient; Conflict of Interest at Core

By Jamie Wells, M.D. — September 1, 2017

A disturbing video (start at minute 4:55) went viral of Utah nurse Alex Wubbels being handcuffed, while screaming as she tried to do her job. The images obtained from University Hospital and Detective Jeff Payne's body cameras reveal the standoff. At issue: if the police officer could obtain a blood sample from her patient who was hurt from a July 26 collision that involved a fatality.

In an ironic twist, as the nurse painstakingly endeavors not to violate the rights of her patient she ultimately is handcuffed screaming, "You are assaulting me! Help!"

Nurse Wubbels contended that she was not permitted to take blood from an unconscious patient unless these conditions were met: 1) the patient was under arrest, 2) the officer had a warrant, 3) the patient consented. For obvious reasons, a medical professional cannot achieve informed consent of an impaired patient and the other mandates were not realized which the detective acknowledged.

In the footage, Det. Payne asserts he has the authority and if she does not comply then she will be held criminally responsible. The nurse consults with officials and the situation escalates with her arrest and screams for help.
According to *The Salt Lake Tribune* [3], “In a written report, Payne said he was responding to a request from Logan police to get the blood sample, to determine whether the patient had illicit substances in his system at the time of the crash. Payne explained the “exigent circumstances and implied consent law” to Wubbels, but, according to his report, she said “her policies won’t allow me to obtain the blood sample without a warrant.”

Karra Porter, a Salt Lake City attorney representing Wubbels, noted to the media [3] “‘implied consent’ has not been the law in Utah [4] since 2007, and the U.S. Supreme Court ruled in 2016 that the Constitution permits warrantless breath tests in drunken-driving arrests, but not warrantless blood tests [5]. She stressed that the patient was always considered the victim in the case and never was suspected of wrongdoing.”

The hospital, nursing organizations, the police department, governor and so forth immediately publicly maligned the actions of the officer and championed those of the nurse in advocating for her patient. Internal investigations are under way and decisions over legal actions are unknown at present.

The video is upsetting to watch given the clear devotion to patient care of burn unit nurse Wubbels. The battles healthcare professionals face extend well beyond high volumes, increased regulations, and the nature of patient care itself. This unfortunate event demonstrates what is fundamentally at odds with a provider delivering care and that of law enforcement. That nurse beyond the hospital policies and Utah laws is ethically responsible for being a fierce advocate for her patient. Her duty is to her patient, not even the hospital or the police. Performing a procedure without consent would place her into the realm of committing assault and battery. Her oath and the requirements of her profession dictate the highest standard. These are universal no matter the patient. The rules and principles don’t change no matter the identity of the patient or even in this case where it appears the police wanted to clear the patient with that sample.

Where one would hope the professions would synergize—and, thankfully, this is usually the reality, in this type of instance an innate conflict of interest exists. The nurse is focused on lifesaving, the officer on building or closing a case. No one is at fault for that, it is merely different job descriptions. Hopefully, new policies on both sides will be put in place to avoid a recurrence of such a negative event. When legal advice is required in real-time in a busy emergency room while trying to uphold the law and simultaneously not violate a patient's rights while also being responsible for a hefty, dynamic case load warranting close monitoring, it is pretty remarkable nurse Wubbels handled herself as well as she did. Her professionalism and dedication is a testament to the many extraordinary nurses out there who aim to serve their communities vigorously.

**Note(s):**

Given this encounter, please review *Big Brother’s Latest Blow to Patient Privacy* [6] about a recent appeals court decision allowing federal agents to review prescription records without a court order. This bellwether case might be en route to the U.S. Supreme Court.