

West Nile Virus: FDA Revises Guidelines For Blood Donors.

On May 6, 2005 the FDA announced immediate implementation of a new guideline regarding West Nile Virus screening of blood donors.

Recent history of fever and headache will no longer be criteria for deferring blood donation, as the FDA no longer believes such signs and symptoms are strongly indicative of West Nile infection.

The FDA's latest announcement is on our website at <http://www.nursinglaw.com/westnilevirus2.pdf>.

On April 20, 2005 the FDA announced proposed new comprehensive standards for West Nile Virus screening to replace the standards announced in October, 2002 (<http://www.nursinglaw.com/westnilevirus.pdf>).

The proposed new comprehensive standards, emphasizing laboratory testing rather assessing donor signs and symptoms, are available from the FDA at <http://www.fda.gov/cber/guidelines.htm>.

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Misconduct: Harassment Of Nursing Home Patient Ruled Grounds For Termination.

The Court of Appeals of Minnesota has ruled that sexual harassment of a nursing-home resident by a licensed practical nurse is grounds for termination for cause, assuming there has been an investigation and substantial evidence of wrongful conduct has been found. Williams v. Regency Health Care, 2005 WL 949187 (Minn. App., April 26, 2005).

Misconduct justifying termination is any intentional, negligent or indifferent conduct on or off the job that is a serious violation of the standards of behavior that the employer reasonably has the right to expect of the employee.

Inefficiency, a simple instance of unsatisfactory conduct, poor performance or a good-faith error in judgment is not considered misconduct justifying termination.

COURT OF APPEALS OF MINNESOTA
April 26, 2005

Patient Abuse: Aide Convicted Of Criminal Offense.

According to the court record before the Court of Appeals of Mississippi, a certified nursing assistant repeatedly slapped a resident's hand and pulled her hair when the resident grabbed her bed rail and would not let go so that the aide could proceed with her care.

The incident was witnessed by a CNA co-worker and by an aide in training. After the aide in training reported the incident to the charge nurse the charge nurse found the resident frightened and withdrawn lying in her bed.

The resident's hand was reddened and bruised according to the aide's and the charge nurse's testimony in court. Walker v. State, ___ So. 2d ___, 2005 WL 949230 (Miss. App., April 26, 2005).

Abuse: Aide No Longer To Work With Vulnerable Adults.

The Court of Appeals of Minnesota upheld the department of health's decision to place an aide's name in the registry of persons who may no longer work with vulnerable adults who bruised a resident's wrist yanking her to a standing position. D.F.C. v. Comm'r, 693 N.W. 2d 451 (Minn. App., March 22, 2005).

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