

## Code: Defibrillator Should Have Been Used, Court Says.

A diabetic patient was receiving dialysis in an outpatient clinic when the technician noticed that her blood pressure was low. The technician started saline.

The patient passed out. The technician summoned the nurse. The nurse had the technician get an oxygen tank and once the O<sub>2</sub> was going they tilted the dialysis chair back so that her feet were higher than her head. The nurse told the technician to get the doctor. When the patient became unresponsive the nurse started CPR. When the doctor came she disconnected the dialysis line. Then 911 was called. The paramedics found the patient on the floor next to the dialysis chair with CPR underway. Their first note indicated "pulseless electrical activity" in the heart.

The patient died three weeks later without regaining consciousness. The widow sued the dialysis clinic.

***A nurse trained in basic life support should have known to connect the automated external defibrillator. That could have led to a better outcome.***

COURT OF APPEALS OF GEORGIA  
November 16, 2011

The Court of Appeals of Georgia accepted a physician's expert opinion that the standard of care required the nurse also to connect the automated external defibrillator which was available in the clinic at the time of this incident.

CPR alone, assuming it was done correctly, had only a 35% chance of success in this situation. There was some question whether the nurse knew how to perform CPR correctly.

There was no guarantee, but the patient's odds of avoiding anoxic brain injury probably would have been better if the defibrillator had also been employed to monitor the heart, possibly give electrical stimulation and give guidance whether to continue CPR, the court believed. Aleman v. Sugarloaf Dialysis, \_\_ S.E. 2d \_\_, 2011 WL 5557342 (Ga. App., November 16, 2011).

## Claustrophobia: Nurse Unable To Prove Disability Discrimination.

A registered nurse with an office job coordinating organ transplants had ongoing issues with a succession of supervisors over her chronic problem of coming in late for work, for which she was eventually terminated.

Being a minority and fifty-seven when she was terminated, the nurse filed a lawsuit for race and age discrimination.

She also alleged disability discrimination in her lawsuit, her disability being claustrophobia caused by being assigned to a small office without proper ventilation or adequate lighting and the bathroom for which had a very offensive smell.

Her assignment to this office, she claimed, was intended to provoke her to quit voluntarily and thereby resolve her issues with tardiness.

***The nurse in this case does not have a disability. Merely having a note from a doctor that he or she is being treated for symptoms of claustrophobia does not entitle an employee to reasonable accommodation.***

UNITED STATES DISTRICT COURT  
NEW YORK  
September 30, 2011

The US District Court for the Southern District of New York ruled that the ongoing problem with tardiness, repeated write-ups and failed corrective measures were fully documented and verified and were legitimate, non-discriminatory reasons to terminate a nurse in her position.

As to the claustrophobia, merely having a doctor's note that she was being treated for dizziness, nausea, headaches and malaise did not entitle her to reasonable accommodation. Claustrophobia, if sufficiently severe, can be a disability, but it was not proven to be so severe to the Court's satisfaction in this case. Crawford v. New York Presbyterian Hosp., 2011 WL 4530193 (S.D.N.Y., September 30, 2011).

## Sleeping On The Job: Court OK's Aide's Firing.

A CNA was scheduled to report for work at 10:00 p.m. for the night shift where she would be the only person on duty in the nursing home's Alzheimer's unit.

Around 8:00 p.m. she began to experience what she believed was an allergic reaction to some seafood she had just eaten. Her throat felt like it was swelling shut. She took some Benadryl and tried to call in sick for work.

She was reminded she was the only staff member scheduled to work the night shift and it was too late to call in sick for her shift. She came to work anyway.

The charge nurse found her asleep at the front desk and woke her up. The charge nurse came back later during the night and found her sleeping again. The CNA was terminated.

The grounds given for her termination were that she had just arrived home earlier that evening from a long automobile trip out of state and did not get enough rest to be able to come in to work and also that she had taken medication which impaired her ability to do her job.

***There was just cause to terminate this employee. However, there are extenuating circumstances. She was not guilty of intentional misconduct and will be entitled to unemployment.***

MISSOURI COURT OF APPEALS  
November 15, 2011

The Missouri Court of Appeals validated the facility's right to terminate the CNA.

However, the Court also saw extenuating circumstances which should not make her ineligible for unemployment benefits. It could not be explained what else she was supposed to do for her allergic reaction other than take a medication that causes drowsiness. Richardson v. Division of Employment, \_\_ S.W. 3d \_\_, 2011 WL 5525351 (Mo. App., November 15, 2011).