

Medication Given To Non-Patient: Nurse's License Revoked.

An RN went to visit a friend who was a patient in a different hospital than the one where he worked. She had given birth the day before.

When she complained of discomfort, he went out to his car, got two syringes of heparin, came back to her room and injected his friend. A hospital nurse found the syringes in the trash.

The nurse was not an employee of the hospital and had no right or authority to practice there.

There was no physician's order for heparin for this patient, and later complications were possibly due to the heparin she received.

The nurse apparently misappropriated the heparin from his own employer.

DISTRICT COURT OF APPEAL
OF FLORIDA
August 14, 2013

The District Court of Appeal of Florida ruled there were aggravating circumstances which justified the harsh penalty of permanent license revocation.

The most significant aggravating circumstance was that it was possible that the patient experienced medical complications due to the nurse's actions.

It was below minimal standards of acceptable nursing practice for the nurse to attempt to treat a patient at a facility where he was not employed and had no right or authority to practice, for the nurse to administer a medication which was not indicated, for which there were significant potential complications and for which there was no physician's order, and for the nurse to misappropriate the medication from his own employment as a nurse. Fernandez v. Dept. of Health, __ So. 3d __, 2013 WL 4081026 (Fla. App., August 14, 2013).

Disability Discrimination: Psych Nurse With O₂ Unit Is Entitled To Reasonable Accommodation.

The Americans With Disabilities Act establishes an affirmative duty for employers to provide reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability, who is an applicant or employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer.

Reasonable accommodation is defined as job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, provision of qualified readers or interpreters and other such accommodations.

If the employee has a plausible argument that a certain accommodation will enable the employee to fulfill the essential functions of the position, the burden of proof shifts to the employer to prove that the employer is unable to accommodate the employee.

UNITED STATES DISTRICT COURT
MISSOURI
July 31, 2013

A nurse working in a facility that cared for emotionally disturbed children was diagnosed with pulmonary fibrosis.

Her condition caused shortness of breath, fatigue and chest discomfort.

She was approved, at her physician's recommendation, for intermittent medical leaves during her flare-ups.

She also began bringing in a portable oxygen unit to have available in case she needed oxygen for an acute episode.

Concerned that tubing from the nurse's oxygen unit could be used by patients to harm themselves, the nurse's supervisor sent the nurse home.

Soon the nurse was contacted at home by human resources. She was told she was not qualified to work as a nurse on the unit and, because there was no non-patient-contact office job available, she could apply for long-term disability or look for a nursing job somewhere else.

Failure to Provide

Reasonable Accommodation

The US District Court for the Eastern District of Missouri saw grounds for a disability discrimination lawsuit.

First, it was highly questionable whether the administration's safety concerns were reasonable, in light of the fact that facility policy expressly allowed patients to have items with electric power cords such as radios, clocks, tape players, hair curling irons and reading lamps.

Second, a volunteer had been bringing an oxygen unit to the facility for eight months. When it was not needed she kept it locked in the staff office. That was the very same accommodation the nurse requested and there had been no problem.

It was true there were no non-patient-contact office jobs available, but the facility was not required to create one or to displace another employee in order to provide a non-patient-contact job as an accommodation at this nurse's request.

The Court was at a loss to find any explanation behind the administration's treatment of this nurse other than discrimination on the basis of her disability. Morgan v. Hawthorne Children's Psych Hosp., 2013 WL 3946112 (E.D. Mo., July 31, 2013).