

Hearing-Impaired Nurse: Court Discusses Disability Discrimination Issues.

When an employer becomes aware that an employee has a disability the employer must open lines of communication to see what the employee might need as reasonable accommodation.

The employee has the obligation to ask for the specific accommodations the employee believes he or she needs.

Not requested, and therefore non-issues in this case are a stethoscope to use with a hearing aid and an electronic reader board for loudspeaker pages.

Telephone amplifiers, a TTY telephone and sign language interpretation at in-services functions are different; the nurse requested them and their reasonableness was never fully considered by the employer.

After a patient-safety incident a healthcare employer can require a skills reassessment and a medical fitness for duty examination, even if it goes to the issue of the employee's disability.

In this case the employee herself failed to follow through and was fired.

UNITED STATES DISTRICT COURT
GEORGIA
February 3, 2009

The US District Court for the Middle District of Georgia put to rest some of the allegations raised in a hearing-impaired nurse's disability discrimination case against her former employer, while allowing other allegations to remain alive for further elaboration of the evidence.

She has profound bilateral hearing loss from Meniere's Disease. Hearing over background noise is very difficult if not impossible. She cannot use a regular telephone or stethoscope, hear overhead announcements or hear monitor alarms.

Patient Safety Incident

Hearing Ability Questioned

A patient-safety incident occurred three and one-half years into her otherwise satisfactory employment as a staff nurse. She could not be contacted by a monitor tech in a patient emergency. She did not carry a portable phone as the other nurses did, not being able to use one, and the tech did not have access to equipment to send a message to the pager she carried as an alternative to a portable phone.

The nurse fortunately just happened to go and check on the patient anyway before harm could occur.

Although she was officially ruled not at fault in the incident she was ordered into a mandatory skills reassessment, which revealed that her basic nursing skills were completely adequate.

However, she was also told to report for an audiologist's evaluation for which she failed to report and was suspended and then terminated.

In disability discrimination law it depends on the circumstances of every case whether accommodation requested by the employee is a reasonable accommodation required by law, or, on the other hand, an undue hardship beyond the employer's responsibility.

The court must still look at the issue of an amplified phone, TTY and sign language interpreters at in-service meetings. ***Wright v. Hosp. Authority of Houston Co.***, 2009 WL 274148 (M.D. Ga., February 3, 2009).