

Misuse Of Hospital's Email System: Court Sees Grounds For Nurse's Termination.

A full-time registered nurse was turned down by the hospital for a religious exemption to mandatory flu vaccination.

To protest the hospital's action and gain support for himself the nurse tried to use the hospital's computer system to send a mass email to all hospital employees.

The computer system blocked that attempt because the nurse did not have permission from the system to access the list of all hospital employees' emails.

But then the nurse succeeded in sending emails to subgroup employee email lists the system would allow him to access. His intent was to reach all hospital employees, if not at once then piecemeal by emailing to as many subgroups as possible.

Hours after he got off the hospital's computer system he was terminated.

Then he filed for and got unemployment. The hospital appealed on the grounds that he was fired for willful misconduct which disqualified him from unemployment. The Commonwealth Court of Pennsylvania ruled for the hospital.

Nurse Was Guilty of Willful Misconduct

The nurse's argument was that a first offense of misusing the hospital's email system for distribution of a mass email warranted a warning but not outright termination, according to the hospital's policies.

However, the Court pointed out the nurse actually did commit more than one violation, which fully warranted termination, by first trying to send a mass email to the entire employee list, and then by sending emails to selected employee email lists, each of which instance was a violation of the hospital's policies.

Further, although the hospital had a policy only to warn but not to fire a wayward employee for a first offense involving misuse of its email system, the hospital was not absolutely bound to follow that policy if an especially egregious incident arose which justified immediate termination for cause, the Court went on to say.

The nurse was guilty of intentional, deliberate, willful misconduct which disqualified him from receiving unemployment. **Good Samaritan v. Board**, 2016 WL 4064094 (Pa. Commwlth., July 28, 2016).

The Court must reject the fired nurse's argument that his actions were reasonable and justifiable under the circumstances.

The nurse claimed that the content of his mass emails supported the argument that he had good cause intentionally to violate his employer's rule against misuse of its email system.

The content of the emails is irrelevant. Regardless of the content the emails violated his employer's rules.

According to the employer's policies, email communication to other employees is provided by the hospital only to assist its employees in conducting the hospital's business.

Instead of pursuing his dispute with the human resources department, the nurse chose to send out mass emails in violation of the employer's policies.

The nurse acknowledged he was fully informed about his former employer's email policies and admitted he made a deliberate decision to violate those policies.

The nurse's actions constitute willful misconduct for which justified his termination for cause.

COMMONWEALTH COURT
OF PENNSYLVANIA
July 28, 2016

Misrepresentation, Fraud: LPN's License Suspended.

On her application to renew her license as an LPN in New Jersey the nurse was asked, since her last license renewal, whether any action had been taken or was pending against her professional license.

The LPN answered "No."

In fact she had been found out and sanctioned in Montana for trying to obtain an RN license by submitting a doctored version of a friend's transcript supposedly showing she had graduated from an accredited RN program.

A nurse's license may be suspended if there is proof the nurse engaged in dishonesty, fraud, deception, misrepresentation or false premises.

SUPERIOR COURT OF NEW JERSEY
August 8, 2016

The Superior Court of New Jersey upheld the license suspension imposed by the New Jersey State Board of Nursing.

The LPN violated state nursing regulations in New Jersey by falsely stating on her renewal application that she had not been subject to any disciplinary action involving a nursing license since her last renewal in New Jersey.

The LPN was also required to come forward and notify the State Board in New Jersey that she had been disciplined in another state without having to be specifically asked about that on her New Jersey license renewal application, which she failed to do. That was grounds in itself for suspension of her New Jersey license.

The Court expressly discounted the LPN's claim of mitigating circumstances which she tried to claim justified her conduct relative to her Montana application. That is, the LPN claimed she was trying to move to Montana to escape an abusive relationship with a partner in New Jersey. That was no excuse for what she did, the Court ruled. **Matter of Kun**, 2016 WL 4162609 (N.J. App., August 8, 2016).