Pregnancy Discrimination: RN's Lawsuit Dismissed By Court.

An RN was hired to work on the transitional care unit in an acute-care hospital.

When hired she signed off on a written job description which required her, among other things, to be able to lift as much as 75 pounds in order to be able to assist the unit's patients.

Soon after being hired the nurse became pregnant. About a month later she was asked to get a note from her physician. Her physician wrote a note restricting her from lifting more than 30 pounds.

The nurse was terminated because she was unable to fulfill one of the essential requirements of her job description, being able to lift 75 pounds, and because no other positions were available that were compatible with her 30-pound lifting restriction.

The nurse sued for pregnancy discrimination. The US District Court for the Southern District of Indiana dismissed her case.

Pregnant Employee Must Be Treated The Same As Non-Pregnant With Similar Ability/Inability to Work

In her lawsuit the nurse pointed to two other nursing employees, a pregnant nurse who was not terminated and a nurse with lifting restrictions from a knee injury who was given light duty and not terminated.

The pregnant nurse who was not terminated was not a valid comparison because, although she was pregnant, her physician imposed no lifting restrictions.

The nurse with the knee injury being allowed to transfer temporarily to a sedentary secretarial position seemed like troubling evidence against the hospital.

It is discriminatory to offer light duty to a non-pregnant employee with a lifting restriction and not to offer the same thing to a pregnant employee with a similar restriction, without a good explanation.

The Court accepted the fact that when the nurse in question came under her physician's lifting restriction there was no secretarial or other light-duty position open.

An employer is under no obligation to displace another employee or to create a light-duty position for the benefit of a pregnant employee with a lifting restriction. **Metzler v. Kentuckiana Med. Ctr., 2013 WL 1619592 (S.D. Ind., April 15, 2013).**

The US Pregnancy Discrimination Act does not impose an affirmative duty on an employer to offer maternity leave or to take other measures to assist a pregnant employee.

The Act requires the employer to treat the employee as well as it would have if she were not pregnant.

The employer must treat a pregnant woman the same as a non-pregnant woman or man who is similar in the ability or inability to work.

This employee's termination occurred not when it was first learned she was pregnant, but shortly after her employer received documentation of the lifting restriction imposed by her physician. That tends not to show any intent to discriminate on the basis her being pregnant.

It was undisputed that the nurse was not able to fulfill an essential function of her job description as a direct-patient care nurse in transitional care.

It would be inappropriate for the employer to second-guess the nurse's physician's judgment or let the nurse try to demonstrate that she actually can lift seventy-five pounds in contradiction to her physician.

UNITED STATES DISTRICT COURT
INDIANA
April 15, 2013

Racial Bias: Court Dismisses Nurse's Discrimination Case.

A minority nurse worked in a facility that serves patients with mental and emotional problems.

She was informed by another nurse that a nineteen year-old patient had not taken her medication. The nurse approached the patient but the patient refused to take her medication. A physical scuffle ensued in which the nurse pushed the patient backward on to a couch.

A security guard watched it on a remote video screen and reported the incident to the director of nursing, who contacted the risk manager.

After an investigation which included obtaining written statements from all the witnesses, including the nurse herself and the patient, the nurse was terminated for patient abuse.

The nurse sued for race discrimination.

The facility's policy states that under no circumstances will an employee strike, shove, pinch, engage in sexual acts, neglect or otherwise subject a patient to violent treatment, verbal abuse or exploitation.

UNITED STATES DISTRICT COURT
MISSISSIPPI
March 26, 2013

The US District Court for the Northern District of Mississippi dismissed her case.

The nurse's lawsuit pointed to several non-minority employees who were not terminated for what she considered similar incidents. One nurse committed verbal as opposed to physical abuse. An aide allegedly struck a patient, but the nurse herself wrote the incident report and never mentioned that he struck the patient. It was only hearsay that another aide knocked a patient's tooth loose during a take-down. **Deanes v. North Miss. State Hosp., 2013 WL 1293794 (N.D. Miss., March 26, 2013).**