

Diabetic Nurse: Court Sees No Disability Discrimination.

A nurse had a hypoglycemic episode at home. She lost consciousness and had to be taken to the hospital by ambulance. She spent two days in the hospital. She returned to work a week later with a note from her physician clearing her to work with no medical restrictions.

She had been living with her diabetes since her diagnosis thirty-five years before.

About a month after her hospitalization her coworkers started reporting and her supervisors started actually witnessing breaches by her of the nursing home's medication administration protocols.

Any of the observed incidents was serious enough to have jeopardized residents' safety.

There is no dispute that this nurse's diabetes is a disability. Her physician clearing her to work means she is a qualified individual with a disability.

However, the nurse never showed any need for or requested any sort of accommodation from her employer for her disability as a diabetic.

Therefore she has no claim that reasonable accommodation was denied.

UNITED STATES DISTRICT COURT
PENNSYLVANIA
September 11, 2019

The US District Court for the Eastern District of Pennsylvania ruled the nurse's medication errors were a legitimate nondiscriminatory basis for her termination, even though her employer started making an issue out of those errors suspiciously soon after her hospitalization for her diabetes.

The nurse never established the need for or requested any accommodation for her disability. ***Gaddis v. Care***, 2019 WL 4384139 (E.D. Penna., September 11, 2019).

Race-Based Care Assignment: Nurse Has Grounds To Sue.

As a general rule a minority employee cannot sue for discrimination unless he or she has been a victim of adverse employment action by the employer due to his or her race or nationality.

This African American nurse did suffer adverse employment action.

She was replaced with a particular patient for the rest of her work shift with a non-minority nurse after the patient used an insulting racist slur in speaking with her supervisor to insist she be given a different nurse.

An overtly racist insult qualifies as adverse employment action even though the African American nurse was not fired, demoted or disciplined and had no change in her pay or benefits, job title, seniority or level of responsibility.

A supervisor commits racial discrimination by acceding to a caregiver preference the patient has expressed based on the patient's racist animosity.

The supervisor insisted the patient told her only that she did not like the nurse's attitude. However, the nurse and a coworker corroborated that the patient used a racist slur to demand a different nurse.

UNITED STATES DISTRICT COURT
MICHIGAN
August 26, 2019

An African American nurse was working the night shift at the hospital when a Caucasian patient of hers rang for assistance at 4:48 a.m.

The patient needed help getting up to use the bathroom. The nurse stood close by as the patient arose from her bed. As the patient tried to stand she lost her footing. The nurse grasped her gently to prevent her from falling.

At that point the patient told the nurse not to touch her, to get a different nurse to help her and to have the nursing supervisor come to her room.

As she was leaving the room the nurse heard the patient use a racist slur while talking on her phone to express that she did not want the African American nurse. When the supervisor got to the room the African American nurse and a coworker, standing just outside the door, heard the patient use the same racist slur insisting she be given a different nurse.

Supervisor Gave In To Patient's Race-Based Request

The US District Court for the Eastern District of Michigan saw conclusive evidence from the African American nurse's and her coworker's testimony that racism was the sole basis for the patient's objection to the African American nurse. It had nothing to do with the nurse's attitude or her competence as a nurse.

The Court ruled that a supervisor's complicity in a patient's racist preference for or against a caregiver of a particular race is willful discrimination for which the caregiver who was removed from caring for the patient has grounds to sue.

The African American nurse did suffer adverse employment action when a patient-care assignment of hers was changed for no other reason than her race.

Although the African American nurse finished her shift caring for different patients on the unit and experienced no discipline or change in her pay, benefits or level of responsibility, she still suffered adverse employment action.

A court can find adverse employment action from the fact alone that an employee is intentionally treated differently on the basis of race. ***Williams v. Health***, 2019 WL 4017187 (E.D. Mich., August 26, 2019).