Family Secrets: Mental Health Worker Fired For Breach Of Confidentiality.

A substance abuse counselor was fired by a county mental health clinic for sharing information from a private session with one client, the daughter, with another client, the mother, in the mother's private session. She sued, claiming disability discrimination was behind her firing.

The US Circuit Court of Appeals for the Seventh Circuit ruled there was a legitimate, non-discriminatory reason to fire her. The court dismissed her disability discrimination claim without actually getting into the issue whether her asthma was a true legal disability. **Curry v. Cass County Mental Health Association, 32 Fed. Appx. 146 (7th Cir., 2002).**

A counselor was having sessions with mother and daughter together.

The daughter asked to speak with the counselor alone and spoke with her alone. The counselor assured her what she said would be kept confidential from her mother.

But then in a one-on-one session with the mother the counselor shared what the daughter had told her in her private one-on-one.

That was a breach of the clinic's policy on medical confidentiality and a violation of state law.

There were grounds to fire the counselor even if her asthma was a disability.

UNITED STATES COURT OF APPEALS, SEVENTH CIRCUIT, 2002.

Failure To Monitor Patient: $9,000,000 Verdict Upheld For Nurses' Negligence.

A patient was admitted to the hospital with pneumonia.

The physician elected to put in a left-side chest tube to drain accumulated fluid and wrote orders for Tylenol Extra Strength and Lorcet Plus q six hours prn for pain and Ativan prn for anxiety.

Staff Nurse
Working Two Full Time Jobs

The Supreme Court of Mississippi began by pointing a finger at the hospital for allowing a staff nurse taking care of critically ill patients to work two full-time jobs. The LPN assigned to this patient worked 11:00 p.m. to 7:00 a.m. at the hospital, then reported for a 7:00 a.m. to 3:00 p.m. shift at the State Hospital nearby.

Assessment Adequate
On Afternoon Shift

According to the court, the p.m. shift nurses periodically checked on the patient, took her vital signs and saw and charted that she was experiencing no distress. Notes and an audiotape nursing report were left for the night shift.

Assessment Inadequate
On Night Shift

The night shift staff LPN and unit charge nurse did not go into the patient's room until an hour into their shift.

The charge nurse hung an IV bag and left. She later stated it was her habit to inspect the patient visually as she is hanging an IV bag, but there were no vital signs taken or a progress note charted that would support what she said.

The staff LPN took her vital signs at midnight and found she had a slightly elevated pulse. She was having pain on the left side of her chest, the same side as the chest tube. The staff LPN did nothing further until 2:00 a.m.

At 2:00 a.m. he did not take the patient's vital signs, but he gave her a Tylenol because she was still complaining of pain. He went and talked to the charge nurse and came back and gave some Ativan by IM injection.

Respiratory Distress
More Narcotic / No Assessment

At 2:40 a.m. the patient was sitting up in bed and complaining her pain had increased. The LPN saw that her respirations had become short and rapid.

Believing the earlier Lorcet Plus was wearing off, the LPN gave more. The court faulted him for failing to appreciate a narcotic's potential to depress respiration that is already compromised, for failing to take vital signs before and for failing to continue to take vital signs after giving a dose of narcotic medication.

At 3:00 a.m. the charge nurse came in and hung another IV bag.

Patient Assessed
Nurse Appreciates Seriousness

At 3:30 a.m. the LPN came back. The patient was in severe distress, nauseous, disoriented and diaphoretic. The LPN checked her vital signs and went to get the charge nurse but did not stress to the charge nurse that it was an emergency.

They both came back at 3:40 a.m. They found the patient cyanotic and called a code. She was revived.

However, for the rest of her life the patient will have profound hypoxic brain damage. A lawsuit was filed for her. The jury awarded $9,000,000. The Supreme Court of Mississippi ruled that was not excessive under the circumstances.

No Code Sheet

The hospital used a pre-printed flow sheet for staff to chart the progress of code incidents. Even though the court issued a pre-trial order for the hospital to turn it over, the code sheet could not be found.

It was not entirely clear what exactly the code sheet would have proven. However, the judge permitted the patient's lawyers to suggest to the jury the fact that no one apparently bothered to fill out a code sheet or did fill one out but then lost it showed a disturbing overall lack of professionalism at the hospital. **Brandon HMA, Inc. v. Bradshaw, 809 So. 2d 611 (Miss, 2001).**