

Sexual Harassment: Physician Was Not A Hospital Employee.

The New Jersey Superior Court, Appellate Division, ruled that the hospital could not get around liability in a staff nurse's sexual harassment lawsuit by claiming that the physician/perpetrator was not a hospital employee but instead was only an associate of an independent medical-practice group whose members had staff privileges to practice at the hospital.

The fact the hospital had an anti-harassment policy is no defense.

It was not entirely clear whether the policy applied to non-employees, whether it was communicated to the physician or whether any attempt was made to enforce it with the physician in this particular case.

That is, the hospital's policy was not an effective anti-harassment policy.

NEW JERSEY SUPERIOR COURT
APPELLATE DIVISION
April 28, 2010

An employer has a legal obligation to take affirmative measures to deter sexual harassment before the fact and to stop it once it is reported.

The hospital apparently did not require non-employee physicians practicing at the hospital to participate in sexual harassment training and was at best only equivocal in dealing with it after it occurred.

The Court said that a perpetrator crosses the line from obnoxious behavior which might not be serious enough for a lawsuit to outright harassment when unwanted touching of a sexual nature occurs. ***Collelo v. Bayshore Community Health, 2010 WL 1753164 (N.J. App., April 28, 2010).***