

## Sleep Apnea: Court Finds No Disability Discrimination.

A staff nurse was given several verbal and written warnings because he was consistently late for the 6:30 a.m. start of his day shift at the hospital.

He faxed a letter to his supervisor stating that he was overwhelmed by his workload, had little energy and was always fatigued at work, he believed, because he suffered from sleep apnea.

He was terminated the day after he requested six months leave to look for another job. After being terminated he went in for a work-up which confirmed he had obstructive sleep apnea syndrome. He was prescribed a CPAP machine which completely took care of his symptoms.

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***A person whose physical or mental impairment is corrected by medication or other measures does not have an impairment that substantially limits a major life activity.***

***That is, the nurse's sleep apnea is not a disability***

UNITED STATES DISTRICT COURT  
PENNSYLVANIA  
January 20, 2010

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The US District Court for the Eastern District of Pennsylvania ruled the nurse had no legal basis to sue the hospital for disability discrimination.

First, Federal regulations set out a long list of conditions which are recognized as disabilities for purposes of the Americans With Disabilities Act. Sleep apnea is not on the list.

Second, a physical or mental condition is not a disability if it can be corrected by use of medication or other means so that it no longer impairs the individual's ability to work, as a general rule.

Third, the nurse voluntarily resigned without requesting reasonable accommodation. ***Keyes v. Catholic Charities*, 2010 WL 290513 (E.D. Pa., January 20, 2010).**