

## **Sleeping On The Job: Nurse's Disability Discrimination Case Rejected.**

**A**fter twenty-three years at the hospital a nurse was terminated for substandard performance.

Other hospital personnel in the neonatal intensive care unit reported the nurse for sleeping on the job and for being unable to respond quickly to calls for assistance with patients.

The nurse's supervisor twice met with her and offered to transfer her to a different shift to help combat her problem. She refused to change shifts, continued her substandard performance, was fired and then sued for disability discrimination.

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***Chronic fatigue syndrome may or may not be a disability falling under the disability discrimination laws.***

***That is not the point. The point is, whether or not it is a disability, was there a legitimate, nondiscriminatory reason behind this nurse's employer's decision to terminate her?***

COURT OF APPEALS OF OHIO  
September 23, 2005

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The Court of Appeals of Ohio declined to set a definitive legal precedent whether or not chronic fatigue syndrome should be recognized as a legal disability.

Even if it is a disability, the hospital employer made a sufficient effort to work with this employee to accommodate her condition and had a legitimate, non-discriminatory reason to terminate her after the accommodation was refused and problems continued which compromised patient-safety standards, the court said. **Cox v. Kettering Medical Center, 2005 WL 2327124** (Ohio App., September 23, 2005).