

Disability Discrimination: Court Weighs Issue Of Reasonable Accommodation For Nurse's Condition.

The U.S. District Court for the Northern District of Illinois has ruled that a nurse's asthma and obstructive lung disease are an employment disability for which reasonable accommodation must be made. The nurse in this case was told by her physician that walking outside in very cold weather between the residential cottages at the facility for developmentally disabled adults where she worked seriously aggravated her medical condition. Otherwise she was fully able to perform all of the required functions of her job as a registered nurse.

The facility had sufficient staffing resources and was able to offer the nurse flexible use of medical leave when the weather was too cold for her. The nurse insisted on a position where she could work indoors all of the time.

The court ruled the facility had made the most reasonable accommodation it could without suffering undue hardship. The employer did not have a position available at the time for a nurse in which the job description did not require walking outside from building to building in cold weather. The employer did not have to create a new indoor position or displace another employee from such a position to accommodate an employee with a disability.

The employer would be required to inform the nurse when the type of position she wanted as reasonable accommodation, a full-time inside position, became available. She would be allowed to apply, but as a disabled employee seeking reasonable accommodation she did not have to be given a preference over other employees without disabilities who might have better qualifications or more seniority.

An employee is not necessarily entitled to the specific accommodation requested, only to an accommodation which is reasonable under the circumstances. **Zamudio vs. Patla**, 956 F. Supp. 803 (N.D. Ill., 1997).

An employer with sufficient staff can elect to offer a nurse the flexible use of medical leave as a reasonable accommodation to an employment disability if there is no nursing position available at the time which is consistent with the nurse's disabling condition.

An employer does not have to create a suitable position for a nurse with a disability, displace another worker from such a position for the benefit of a disabled employee or give a disabled employee a hiring preference over others when a suitable position comes up.

The employee has the obligation to inform the employer of his or her disability and the employee must ask for specific action from the employer as reasonable accommodation. Then both sides are responsible for working together in good faith to determine what would be reasonable.

The employer knows what positions are currently available and the physical demands of each, and must offer a suitable position, if one is available.

UNITED STATES DISTRICT COURT,
ILLINOIS, 1997.

Chemical Dependency: Court Applauds Center's Refusal To Permit Patient Self-Medication.

A patient sued a chemical dependency detox center for medical malpractice because the admitting staff refused to permit him to keep his Valium prescription with him so that he could medicate himself while in treatment.

According to the patient, the Valium was prescribed by his personal physician for chronic vertigo. Because he was not able to take the Valium, the patient alleged he became dizzy, fell and struck his head. The fall was not witnessed. However, nine days later he was sent to a hospital for evaluation of headaches, numbness and speech and vision difficulties and was diagnosed with a subdural hematoma.

Nevertheless, the Court of Appeals of Minnesota ruled the center exhibited a high degree of professionalism in refusing to allow a chemical dependency detox patient to medicate himself with a controlled substance. **Maloney vs. Dakota County Receiving Center, Inc.**, 560 N.W. 2d 402 (Minn. App., 1997).

Employment Law: Punching Time Card For Another Not Grounds For Firing, Court Says.

The employee handbook prohibited one hospital employee to clock another out. However, the Court of Appeals of Indiana ruled a hospital employee could only be warned and could not be fired for clocking others out at the end of the shift, because the hospital had not been enforcing its rule uniformly. **McClain vs. Review Bd. of Indiana Dept.**, 677 N.E. 2d 1084 (Ind. App., 1997).