

Auto-immune Skin Disorder: Nurse Practitioner Should Have Obtained Physician Consult.

A patient was seen by a nurse practitioner in a county health clinic for a skin disorder. She prescribed antibiotics and a topical cream. The patient actually had pemphigus vulgaris, an uncommon auto-immune skin disorder from which she died three months later.

The New York Supreme Court, Appellate Division, ruled there were grounds for a malpractice lawsuit against the county for the nurse practitioner's negligence.

Minimal Training in Dermatology

Her training in dermatology was minimal, one day at best, but that made no difference. The nurse practitioner should have consulted with a physician about referring this patient to a specialist in dermatology, the court believed. Rivera v. County of Suffolk, 736 N.Y.S.2d 95 (N.Y. App., 2002).

Transfer Of Nursing Home Resident: No Reason Found.

A nursing home sought legal permission from the state Department of Children and Families before transferring a resident to another facility against the resident's wishes.

The Department's hearing examiner ruled there were no grounds to transfer the resident against her wishes and the District Court of Appeal of Florida agreed.

Involuntary Transfer / Federal Standards

Involuntary transfers of nursing home residents from facilities that accept Medicaid or Medicare are governed by Federal standards. The transfer must be necessary to meet the resident's needs which no longer can be met at the facility or must be necessary to protect the health or safety of other residents who are endangered by the resident's continued presence.

The court noted the facility had a specialized lockdown security unit for Alzheimer's dementia patients which was completely appropriate for this resident. Edgewater Village v. Youngren, 803 So. 2d 900 (Fla. App., 2002).

HIV Discrimination: Court Says Some Direct-Care Workers Do Pose A Significant Risk To Patients.

A recent case from the US Circuit Court of Appeals for the Eleventh Circuit involved a dental hygienist.

HIV Is A Disability

The court upheld the general rule that HIV is a legally-recognized disability. In general, HIV-positive healthcare workers can sue their employers for disability discrimination if they are excluded from direct patient care on the basis of their HIV status.

Significant Threat Of HIV Transmission

The court also upheld an exception to the general rule for a small segment of the direct-care population whose jobs pose a significant risk to patients of HIV transmission. Their employers can exclude them from direct care without being sued for discrimination.

It is illegal disability discrimination to exclude an HIV-positive healthcare worker from direct patient care unless there is a significant risk of HIV transmission due to the special nature of the worker's job.

This exception exists only for employees doing invasive procedures with sharp instruments who can cut themselves and bleed into the patient.

UNITED STATES COURT OF APPEALS,
ELEVENTH CIRCUIT, 2001.

Invasive Procedures / Sharps

The CDC has documented scientific evidence that direct-care workers like dental hygienists and operating room personnel who perform invasive procedures with sharp instruments can cut themselves inadvertently and their blood can enter the patient's bloodstream. The HIV virus can be transmitted in this manner and lead to seroconversion, according to the CDC.

Consultation With CDC

The court commended the employer in this case for consulting with the CDC before deciding to dismiss the HIV-positive employee, and for taking potentially controversial action rather than risking the health of patients. Waddell v. Valley Forge Dental Associates, Inc., 276 F. 3d 1275 (11th Cir., 2001).