

## Nurse's On-The-Job Back Injury: Reasonable Accommodation Not Required, Court Says.

**T**he US District Court for the Southern District of Texas dismissed as unfounded a nurse's lawsuit for disability discrimination and retaliation.

***The Americans With Disabilities Act does not require a hospital to put aside its expectation that a clinical nurse be able to pull up, turn and ambulate patients and assist them with transfers and bathing, assuming that was part of the written job description before the nurse's injury. That is not required as reasonable accommodation for an on-the-job back injury.***

***An employer must be cautioned that it cannot fire an employee in retaliation for the employee filing a worker's compensation claim and getting benefits due under the law. The employee can sue, but only if the employee can prove such retaliation was the motive for the firing.***

UNITED STATES DISTRICT COURT,  
TEXAS, 1996.

An employer does not have to make an exception for a clinical nurse with a back injury, if her job description carries with it patient-care-related physical requirements that are an essential function of her job, the court ruled. Guneratne vs. St. Mary's Hospital, 943 F. Supp. 771 (S.D. Tex., 1996).

## Disability Discrimination: Tolerating LPN's Frequent, Unpredictable Absences Not Required As Reasonable Accommodation, Court Says.

***Systemic lupus erythematosus (lupus) is recognized under the Americans With Disabilities Act as an employment disability.***

***The facility provided a lighter medication cart and assigned the nurse to a floor with less walking and fewer floor ramps.***

***However, tolerating this nurse's absenteeism was not required as reasonable accommodation to her employment disability.***

***Due to her lupus, the nurse was having frequent flare-ups of pain in her hands and back and swelling in her knees, which caused her to miss work.***

***Her frequent unscheduled absences from work imposed an undue hardship on the facility, its clients and other staff. Any unscheduled absence by a professional nurse required the facility to try to provide good patient care while short-staffed, to call in other staff who were scheduled for time off from work, or to force staff already on duty to stay and work overtime.***

UNITED STATES DISTRICT COURT,  
KANSAS, 1996.

**T**his facility provided reasonable accommodation to an LPN's employment disability, systemic lupus erythematosus (lupus), by providing her a lighter medication cart to push, and by assigning her to a portion of the building where walking distances were shorter and where there were fewer floor ramps.

The facility, an intermediate care center for developmentally-disabled clients, did not have the obligation to let her work in a portion of the premises where, due to the shifting make-up of its patient population, there was no longer the need for a full-time nursing staff assignment.

Most notably, the U.S. District Court for the District of Kansas ruled that the facility did not have the legal obligation under the Americans With Disabilities Act to tolerate the nurse's absenteeism as a reasonable accommodation to her employment disability. Such accommodation was not required, as it would have imposed an undue hardship on the facility, on the clients it served and on the other nurses.

The court noted, as the employer had conceded, that lupus is recognized by law as an employment disability. The court did not discount the genuineness of the nurse's diagnosis of lupus, or disagree that flare-ups of pain and swelling made it necessary for her to call in sick.

However, even with a genuine medical condition that is unquestionably recognized by the law as a disability, the employer's legal duty of accommodation toward the employee's condition extends only to "reasonable" accommodation. Tolerating excessive absenteeism by professional nursing staff who are accountable for seeing that their clients get their nursing care is not reasonable accommodation, the court ruled. Willett vs. State of Kansas, 942 F. Supp. 1387 (D. Kan., 1996).