

Cell Phones: On-Duty Facebook Posting Violated Rules, Nurse's Firing Upheld.

A registered nurse was fired from her position in a nursing home for using her personal cell phone to post comments on Facebook about a co-worker who had just had an accident in the bathroom and soiled herself.

The nurse was passing medications to patients at the same time she went on Facebook.

She had been warned five months earlier after she was caught talking on her personal cell phone while on duty.

The nursing home had a work rule prohibiting employees' use of personal cell phones while on duty. Nursing home personnel policy was to provide progressive discipline for infractions of work rules, but the nursing home also reserved the right to terminate any employee immediately for an infraction which could cause a life-threatening situation to a patient or patients.

The Commonwealth Court of Pennsylvania ruled the nurse was guilty of willful conduct justifying immediate termination for cause.

The decision of the Unemployment Compensation Board of Review was upheld denying her employment benefits.

The Court pointed out that nursing home management verified by accessing her Facebook page that the comments were posted on Facebook at the same time the nurse was on duty passing medications. That was done before they fired her. Checking her Facebook page was not a violation of the nurse's privacy rights.

When confronted, the nurse admitted she was passing medications and using her cell phone to access Facebook at the same time.

The Court ruled it was reasonable for the nursing home to have a policy prohibiting personal cell phone use by employees on duty, that the policy had been communicated to this nurse and that she was aware of the consequences.

It was also reasonable, the Court said, for the nursing home to consider a nurse being distracted by using her cell phone to access Facebook while distributing medications to patients as a serious enough infraction to justify dispensing with progressive discipline and going ahead with immediate firing, as it threatened patients' health and safety. **Chapman v. Unemployment Comp. Bd.**, __ A. 3d __, 2011 WL 1549057 (Pa. Comwth., April 25, 2011).