

Neglect Of Patient: CNA Can Be Fired For Misconduct.

To leave a female nursing home resident unattended in bed for two hours, with her lower body uncovered and completely exposed and her catheter bag lying flat on the bed so that urine cannot not flow freely or drain, is misconduct sufficiently severe as to warrant a certified nurse's aide's dismissal, the New York Supreme Court, Appellate Division has ruled. The nursing home resident was still partially clad in her daytime clothing and her shoes were still on in bed.

The aide had already been reprimanded at least once for violating the nursing home's standards for attending to patients' care needs, and had been warned that any further neglect could result in termination. He admitted this resident was his to care for on this shift. **Matter of Alfred J. Miller**, 651 N.Y.S. 2d 244 (N.Y. App., 1996).

Labor And Delivery: Nurse Should Not Apply Fundal Pressure If Shoulder Dystocia Is Present.

According to the Court of Appeal of Louisiana, a nurse should recognize the risk involved in using fundal pressure to expedite delivery when the fetus has presented with shoulder dystocia. The delivery in this case was complicated by the mother's gestational diabetes, which made for a large (nearly 10 lbs.) fetus.

The court, however, did not go on to offer guidance about what a nurse is expected to do when directed by the physician to apply fundal pressure during the heat of a complicated delivery. **Hollingsworth vs. Bowers**, 690 So. 2d 825 (La. App., 1996).

Stealing Meds From Patients: Nurse Can Be Fired For Misconduct.

Stealing a resident's medications is grounds for terminating a nurse's employment, the Court of Appeals of Minnesota has ruled. However, the evidence must be conclusive that a theft has occurred to justify such action.

In this case, forty of one-hundred twenty pain pills were reported missing by a retirement community resident from a bottle of pills he kept in his bathroom. The nurse in question had come to the resident's assistance earlier that day when he fell out of bed and had called two other nurses to assist in getting the resident back in bed. Then the nurse returned by himself after the others had left, to fetch his stethoscope and blood pressure cuff he had left in the resident's bathroom near the medicine chest. The nurse ended up talking to the resident at length, forgot his equipment, and had to come back again to get it.

Although the missing meds could not be accounted for and there were strong grounds to suspect this nurse, the proof was not solid enough to justify his termination. **Posch vs. St. Otto's Home**, 651 N.W. 2d 564 (Minn. App., 1997).

Disability Discrimination: Not Certified, Nurse Has No Claim.

According to the U.S. Circuit Court of Appeals for the Sixth Circuit, an institution does not risk disability discrimination for denying a disabled nurse a position for which clinical certification is required if the nurse does not have the certification. **Kocsis vs. Multi-Care Management, Inc.**, 97 F. 3d 876 (6th Cir., 1996).

Home Health: Defamation Suit Filed By Nurse, Thrown Out By Court.

Because of two lapses in IV technique, a home health agency felt it best to terminate a nurse. Other nurses at the agency were told she had been fired "for several incidents" and were told nothing more. Clients were sent a letter advising that the nurse was no longer employed by the agency and was not authorized to provide nursing services to clients on the agency's behalf. None of this conveyed a specific message about the nurse which could be considered damaging to her professional reputation and grounds for a defamation lawsuit, the Supreme Judicial Court of Maine ruled in a recent case.

A home health agency can send a letter informing its clients that the nurse who had been caring for them is no longer employed by the agency and is no longer authorized by the agency to provide nursing services on behalf of the agency.

A statement of this nature does not convey a defamatory message about the nurse and does not do damage to a nurse's professional reputation.

SUPREME JUDICIAL COURT OF MAINE, 1997.

As required by law, the agency also sent the state board of nursing a detailed statement of its reasons for terminating this nurse. The court ruled this also did not give the nurse grounds for a defamation lawsuit, as the law required every employer of professional nurses to send in a report of a nurse's termination and gave the employer legal immunity for doing so. **McCullough vs. Visiting Nurse Service of Southern Maine, Inc.**, 691 A. 2d 1201 (Me., 1997).