

Drunk Driving: Court Upholds Discipline Against Nurse.

The state Board of Registered Nursing placed a registered nurse's license on three years probation after he pled no contest to misdemeanor drunk driving after he lost control of his car one night on the way home from a party and collided with the center divider. His blood alcohol was .16.

The nurse had an exemplary work record and, according to friends called as character witnesses, he rarely drank.

In fact, a psychiatrist who evaluated him after the incident concluded he did not meet the diagnostic criteria for alcohol abuse or dependence. It was a single, isolated episode of poor judgment, in the psychiatrist's opinion.

The Board of Nursing never required further evaluation, treatment or counseling for chemical dependency. There was no direct evidence that consumption of alcohol in any way affected the nurse's ability to practice his profession.

Unprofessional conduct for a nurse includes use of alcohol in a manner dangerous to oneself or others.

CALIFORNIA COURT OF APPEAL
April 19, 2012

The California Court of Appeal upheld the disciplinary sanctions imposed by the Board of Nursing.

Driving while intoxicated is a behavior which is dangerous to oneself and others. As such it fits the legal definition of unprofessional conduct for a nurse. The California courts have already reached the same conclusion for physicians.

To be grounds for discipline with respect to a professional license it is not necessary to show that unprofessional conduct occurred during professional practice or had any effect on one's ability to practice or is evidence of an ongoing state of impairment that could have an effect on one's ability to practice as a nurse, the Court ruled. ***Sulla v. Board of Registered Nursing***, 2012 WL 1355556 (Cal. App., April 19, 2012).

Correctional Nursing: Case Against Nurses Dismissed.

A prisoner filed a civil-rights lawsuit alleging that the nurses and physicians working for the contractor that provided medical services to the state department of corrections were deliberately indifferent to his serious medical needs.

It is a violation of a prisoner's Constitutional rights to subject the prisoner to unnecessary and wanton infliction of pain by showing deliberate indifference to the prisoner's serious medical needs.

UNITED STATES DISTRICT COURT
MISSISSIPPI
April 3, 2012

The US District Court for the Southern District of Mississippi dismissed the prisoner's lawsuit.

The prisoner put in sick-call requests for hemorrhoids, constipation and a cold. The physician ordered chest and abdominal x-rays, blood tests and a metabolic panel and did an abdominal exam. Finding nothing else wrong he gave the patient two hemorrhoid creams.

On his first follow up dispensary visit the nurse documented that she gave him milk of magnesia for his constipation.

On his second visit another nurse documented that she gave him more milk of magnesia for his constipation and also chlorpheniramine maleate and acetaminophen for his stuffiness and cold symptoms.

The Court did not play down the seriousness of hemorrhoids or a common cold as health conditions in a prisoner which correctional medical personnel have an obligation to address.

The Court dismissed the case because the medical evidence pointed clearly to the fact they listened, evaluated their patient's complaints, rendered appropriate treatment and fully documented what they did for him. ***Evans v. Wexford Health***, 2012 WL 1120674 (S.D. Miss., April 3, 2012).

Discrimination: Short-Term Condition Is Not A Disability.

An operating room circulating nurse had to have knee replacement surgery due to degenerative arthritis.

Afterward she wanted to come back to work, but with a modification of the physical demands the hospital required of all staff nurses to allow her not to have to stand for more than two hours without a rest period to sit down and elevate her legs for five to ten minutes.

The accommodation was requested for a period expected to last six months to one year, the time her physician told her that knee-replacement patients usually need to return to 100% physical capacity.

The nurse was placed on extended medical leave, applied for long-term disability insurance benefits, was approved for disability, then had her benefits terminated because she was able to work.

The hospital was not able to accommodate the modifications the nurse requested for the physical demands of the O.R. nurse position, due to the patient safety risk posed by the nurse's medical restrictions.

UNITED STATES DISTRICT COURT
NORTH CAROLINA
April 12, 2012

The US District Court for the Eastern District of North Carolina ruled that the nurse was not disabled.

A temporary medical condition which normally should resolve and which does resolve is not a disability for purposes of the Americans With Disabilities Act (ADA).

It was not relevant whether her supervisors perceived her as disabled and discriminated on that basis, even though she was not disabled, because a recent amendment to the ADA has removed that concept as grounds for a disability discrimination lawsuit. ***Ryan v. Columbus Regional***, 2012 WL 1230234 (E.D.N.C., April 12, 2012).