

EAP: Court Discusses The Legal Standard Of Care For Nurses.

An employee assistance program (EAP) provides counseling on a voluntary basis and acts as mental-health triage for assessment and referral to specialized providers of care.

In this case the employee assistance program consisted of three professionals, a certified counselor, a physician board-certified in internal medicine and a registered nurse.

Each member of the team has specialized skills. Each member of the team is held only to the standard of care for professionals in his or her own profession.

None of the EAP team members was a board-certified psychiatrist. None of them were expected to provide psychiatric care.

A nurse is not expected to treat the complex issues associated with a client's major depression and cannot be held liable for his suicide.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
August 1, 2007

After her husband killed himself the widow filed suit against his then-employer alleging that the company's employee assistance program was negligent for failing to diagnose and treat his depression, thus causing his suicide.

The Superior Court of New Jersey, Appellate Division, dismissed the case against the company, finding no fault with the mental health counselor, internist and registered nurse who made up the employee-assistance program team. The patient's outside psychiatrist was not dismissed.

Nurse's Role in an Employee Assistance Program

A nurse's role in an employee assistance program is to work with employees who seek help for their personal problems.

The nurse's jobs are to assess clients' needs, strengths and weaknesses, refer clients to resources which can provide appropriate treatment and then to motivate and support clients as they receive help from outside sources to resolve their issues.

An employee-assistance nurse can only deal with employees who voluntarily come forward seeking help.

The nurse is not expected to monitor the workforce to detect which employees seem to have problems and to solicit such employees to enter some sort of treatment.

Signs that an employee is in danger from a mental-health crisis, which may be apparent to the employee's co-workers but which are not communicated by the employee to the nurse, are not the nurse's legal responsibility to deal with. ***Karak v. E.I. Dupont, 2007 WL 2188522 (N.J. App., August 1, 2007).***