

# Substandard Exam, Charting: Court Upholds Nurse Practitioner's Firing.

According to the New York Supreme Court, Appellate Division, a nurse practitioner was discharged from her employment when she documented normal gynecological findings in a patient's medical chart without actually performing an internal or external gynecological exam.

The state Commissioner of Labor's ruling was that she was terminated for misconduct. The court agreed.

It was an integral part of her job responsibilities not only to perform competent assessments and examinations of her patients, but to document all treatment accurately in the patient's chart.

An employee's failure to comply with the employer's established policies and procedures is misconduct justifying termination for cause especially in healthcare professions where failure to adhere to prescribed procedures can jeopardize the welfare and safety of patients, the court pointed out.

## **Substandard Examination, Incorrect Chart Note Were Not Mistakes**

A simple mistake or an honest error in judgment does not ordinarily rise to the level of misconduct justifying termination.

However, this was a case where the employee in question knowingly made a notation in a patient's chart which did not accurately reflect the fact that a less than thorough examination, substandard practice in and of itself, was the service which was actually rendered.

The nurse practitioner had previously been warned about her job performance and cautioned that another incident could result in her termination, the court also pointed out. ***In re Nicholas*, \_\_ N.Y.S. 2d \_\_, 2005 WL 3118683 (N.Y. App., November 23, 2005).**