

Fragrance Allergy: Court Approves Worker's Comp Claim.

The sixty-four year-old LPN already had significant COPD from four decades of cigarette smoking before she came to work part time in the nursing home.

On one particular day one of the aides sprayed some perfume in the air. The LPN started to have significant breathing problems just as she first smelled the perfume. She had to sit down for the last four hours of her shift and could barely make it out to her car at quitting time.

The next morning she had to be taken to an acute care hospital for respiratory problems. She was transferred to rehab for two weeks, then sent home.

She has been oxygen-dependent and unable to work since the incident.

A medical condition is covered as an occupational disease under worker's compensation only if it arises out of employment.

Exposure to fragrances can occur on and off the job, but in this case it happened on the job.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
January 9, 2009

The Superior Court of New Jersey, Appellate Division, had to agree with the employer that an adverse reaction to fragrance exposure is not the typical industrial injury seen in worker's comp cases and that it can occur just as likely off the job as on.

However, in this case a major exacerbation of preexisting COPD did occur on the job and did render a formerly able person completely unable to work. ***Sexton v. Cumberland Manor***, __ A. 2d __, 2009 WL 63050 (N.J. App., January 9, 2009).