

Incontinent Patients Not Changed: Aide Can Be Fired For Misconduct.

One of the aide's regular duties at the hospital was changing the clothing and bedding of incontinent patients who had wet themselves.

The aide was instructed by her supervisor to change the clothing and bedding of four such incontinent patients who had called for assistance, before going on her break.

The aide changed one of the four patients and went on her break without changing the other three.

The aide was fired for insubordination.

Acts of insubordination consisting of failure to complete work assignments as directed can be considered conduct justifying termination.

NEW YORK SUPREME COURT
APPELLATE DIVISION
December 29, 2005

The New York Supreme Court, Appellate Division, upheld her termination. That is, the court affirmed the decision of a hearing referee in the state Department of Labor that the aide was not entitled to unemployment benefits, as she had been terminated for just cause.

According to the court, despite previous warnings concerning her insubordinate behavior the aide disregarded her supervisor's direct orders to change her patients before going on her break. A court is especially likely to see misconduct justifying termination when a caregiver compromises patients' safety and welfare. **Claim of Volmar, ___ N.Y.S.2d ___, 2005 WL 3543752 (N.Y. App., December 29, 2005).**