

Last-Chance Agreement: Nurse Violated Terms, Firing Upheld.

After she was caught under the influence of illegal drugs at work a registered nurse's license was restored and she was allowed to return to work on condition that she sign and strictly follow a last-chance agreement.

The last-chance agreement required her to get express permission from her charge nurse each time before she dispensed narcotics and to get her charge nurse or manager to check her documentation of wasting of unused narcotics each time after she dispensed narcotics to insure that she followed procedures.

On nine separate occasions her documentation of wasting of narcotics was found be in violation of the hospital's procedures, which for her amounted to nine separate direct violations of the last-chance agreement she had signed.

The nurse was terminated.

An employer is justified in terminating an employee for misconduct, which means a direct violation of an employer policy which has a detrimental effect on the employer's interests.

NEW YORK SUPREME COURT
APPELLATE DIVISION
May 19, 2011

The New York Supreme Court, Appellate Division, ruled that the hospital was justified in terminating the nurse's employment for misconduct.

Failure to follow the hospital's policies for administration of narcotics and documentation of administration and wasting of narcotics is misconduct justifying termination, the Court said. In this case the misconduct was aggravated by the fact it went counter to the last-chance agreement the nurse had specifically agreed upon as a condition of continued employment. **Claim of Sutton, __ N.Y.S.2d __, 2011 WL 1886180 (N.Y. App., May 19, 2011).**