

# LEGAL EAGLE EYE NEWSLETTER

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*For the Nursing Profession*

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## Lifting Restriction: Court Turns Down Nurse's Disability Discrimination Claim.

A staff nurse was injured while working in the hospital's cardiac care unit when a patient grabbed on to the nurse's left shoulder in the process of sitting up in bed.

The nurse applied for and received worker's compensation time-loss and medical payments benefits and was approved for two extended periods of medical leave according to the Family and Medical Leave Act (FMLA).

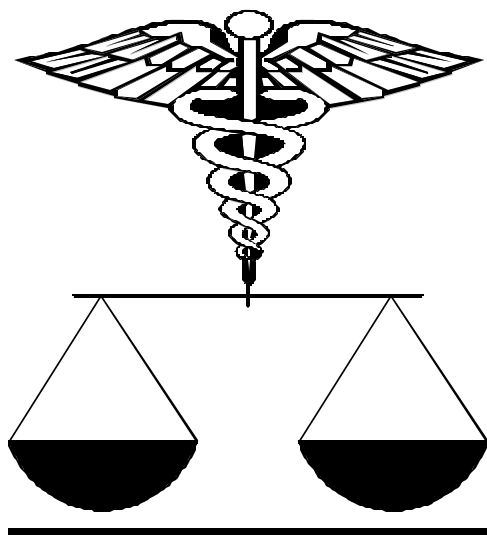
A controversy arose when the nurse felt he was ready and wanted to return to work.

His physician certified him as fit to return to duty, with a medical restriction against lifting more than forty pounds. Human resources told him he had to be 100% fit for duty and able to perform CPR.

### Accommodation Requested

After speaking with a representative of the US Equal Employment Opportunity Commission (EEOC) the nurse wrote a letter asking for what he believed was a reasonable accommodation so he could return to work.

Pointing to the Americans With Disabilities Act (ADA) the nurse officially requested an accommodation from the hospital in the form of a nursing position that did not involve lifting more than forty pounds.



***The nurse's medical restriction that he cannot lift more than forty pounds is not a disability under the Americans With Disabilities Act.***

***In order to be substantially limited in the ability to work for a living an individual must be unable to perform a broad class of jobs, not simply a single job or type of job.***

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
April 3, 2003

### Job Description Revised To Meet JCAHO Recommendation

Human resources told the nurse the hospital had just recently revised the generic job description for staff nurses to require all staff nurses to be able to lift at least fifty pounds, in line with a recommendation to the hospital from the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) that specific quantitative benchmarks be implemented for nurses' clinical competency.

In February 1999 the nurse finally resigned. He sued for disability discrimination, citing the hospital's alleged refusal to provide reasonable accommodation to his disability.

### Court Turns Down Nurse's Disability Discrimination Claim

Nurses with medical restrictions against lifting who are not given light-duty positions do not have the right to sue their employers for disability discrimination, as a general rule.

The US District Court for the Southern District of New York went through the series of steps the courts use in the legal analysis of these cases.

The threshold issue is always whether the employee has a disability as disability is defined by the ADA.

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