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Pregnancy Discrimination: Light-Duty Policy Must Be Applied Uniformly, Pregnant Or Not.

A CNA who was working in a nursing home became pregnant.

About three months into her pregnancy she gave her supervisor a note from her physician stating, "My patient is pregnant and is required to be on light duty – sitting mostly – until the end of her pregnancy."

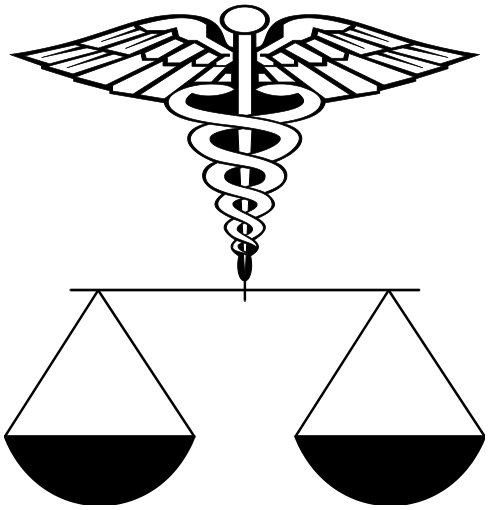
The facility declined to honor the physician's medical restrictions as written and did not follow up for clarification. The CNA was not scheduled for further work shifts.

Pregnancy Discrimination Lawsuit

The US District Court for the Northern District of Illinois upheld the CNA's right to sue for pregnancy discrimination.

The US Pregnancy Discrimination Act outlaws discrimination because of or on the basis of pregnancy, childbirth or related medical conditions.

The Act states expressly that women affected by pregnancy, childbirth or related medical conditions must be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in the ability or inability to work. The phrase "similar in the ability or inability to work" has been interpreted by the courts to refer only to factors other than pregnancy itself.



Another total-care caregiver was allowed to work on crutches and/or to use a wheelchair at work after she injured her knee off the job.

It is questionable at best how the facility can claim the right to deny light duty to a pregnant caregiver based on a policy that light duty is reserved only for caregivers who were injured on the job.

UNITED STATES DISTRICT COURT
ILLINOIS
March 16, 2009

Light Duty Policy Ostensibly Reserved for Injuries on the Job

The facility claimed it had a policy that light duty work assignments for total-care workers were available only to those who had been injured on the job.

The facility's policy is perfectly legal, at least as written. Pregnancy does not require reasonable accommodation, only equal treatment with others who are similar in all respects except for being pregnant.

Facility's Light Duty Policy Was Not Applied Uniformly

The CNA was able to point to at least two co-workers whose job descriptions, like hers, required physical ability to perform total patient care, who were allowed light duty for physicians' medical restrictions that did not stem from injuries they had sustained on the job.

According to the court, that gave the CNA a *prima facie* case of discrimination.

The court also mentioned that the facility's policy was never communicated to the CNA before she asked for light duty. That may be substandard human relations practice but it is not fatal to the defense of a discrimination claim, the court said.

The courts also do not delve into or judge the wisdom of employers' policies; the courts only care that policies are applied uniformly. **Woodard v. Rest Haven, 2009 WL 703270 (N.D. Ill., March 16, 2009).**

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