

Misconduct: Nurse Gave Unfamiliar Med Without Looking It Up, Termination For Cause Upheld.

A nurse new to the home health field was terminated after she admitted during a case-file review that she had given Soma to a client, a medication with which she was completely unfamiliar, without consulting a reference source for necessary information.

The state department of unemployment compensation denied her claim, ruling that she was fired for misconduct. The Court of Appeals of Ohio ruled in favor of her former employer and dismissed the nurse's civil lawsuit which had alleged wrongful termination and defamation of character.

No Defamation Committed

Good Faith Basis Existed for File Note Re Poor Nursing Practice

The court supported her supervisor's placing a note in her file that she was fired for poor nursing practice.

The home-health nurse was fired after admitting she gave a medication to a patient but did not know what it was, what it was intended for and what its possible side effects were, and did not look it up in a reference source.

The nurse's only excuse was that she had been working in pediatrics and was not familiar with adult medications.

COURT OF APPEALS OF OHIO
March 29, 2007

A former employee cannot sue a former employer for defamation over a derogatory statement in a personnel file if the statement was put in the file with a good-faith belief as to its truth.

Employers have a legitimate legal interest in communicating candidly regarding an employee's or former employee's job performance. As long as an unsatisfactory impression of an employee's competence is supported by proven factual evidence, the employer can communicate that impression to potential future employers. An employee must prove lack of good faith or actual malice to sue for defamation. Hatton v. Interim Healthcare, 2007 WL 902176 (Ohio App., March 27, 2007).