

Removal Of Documents: Nurse Practitioner Fired For Breach Of Medical Confidentiality.

The nurse practitioner was issued a final warning from the medical center for excessive tardiness, inferior work performance, inappropriate behavior and conduct, unsatisfactory patient and public relations and lack of cooperation with leadership and fellow employees.

The next day she met with the center's chief operating officer to raise questions about compliance issues including alleged improper Medicare billings and her being expected to read orthopedic x-rays that were beyond her practice level.

Later that same day she took several patient chart face sheets from her supervisor's office, ostensibly to back up the concerns she said she was planning to report.

The next day she was terminated for taking home and refusing to return the face sheets, that is, for violation of the medical center's patient confidentiality policy.

Afterward it came to light she never actually contacted a compliance officer or the state Department of Health or any other state or Federal agency with her allegations of improper billing practices or expectations regarding tasks outside her scope of practice.

Whistleblower Lawsuit Dismissed

The Court of Appeals of Washington ruled that the medical center did not violate the nurse practitioner's rights under the state's whistleblower protection law.

State law in Washington allows healthcare employees to file confidential complaints with the Department of Health over issues relating to quality of care, and the law protects employees who do so. However, the nurse practitioner never actually filed such a complaint, so the issue of her rights as a whistleblower was moot.

Breach of Medical Confidentiality

The Court validated the medical center's policy that staff were prohibited from removing patient data from the facility except in accordance with facility policies. Employees are bound by medical confidentiality, which means not sharing patient information with anyone else unless authorized to do so, under penalty of termination. **Worley v. Providence**, ___ P. 3d ___, 2013 WL 3830058 (Wash. App., July 23, 2013).

There is no evidence the nurse practitioner was terminated for contacting a compliance officer or for reporting her employer to any state or federal regulatory agency.

State law provides a framework for healthcare workers to report quality of care issues confidentially to the Department of Health and a mechanism for the Department to act upon such complaints.

However, the nurse practitioner in this case threatened to do so but never filed any kind of complaint with the Department and is thus entitled to no protection as a whistleblower for her actions.

The medical center's own policy manual encouraged employees to contact a compliance officer if they suspected a regulatory violation and assured them that they would not be disciplined for doing so.

However, all employees were nevertheless subject to disciplinary action if they violated any other policy or committed other misconduct harmful to the medical center, such as breach of any patient's right to medical confidentiality.

COURT OF APPEALS OF WASHINGTON
July 23, 2013

Self-Medication: Aide's Firing Upheld.

A medical assistant was fired by her nursing manager after it was learned that she had called in a prescription for herself for vitamin D and had also asked another medical assistant to do the same thing for her.

The problem was caught when the pharmacist phoned the physician to question why the dosage was so high.

The physician indicated he had no such patient and had never written any such order. The matter was then referred to the nursing manager to investigate what was going on.

All the elements of employee misconduct are present in this case.

The medical assistant knew she could not phone in a prescription for anyone without a physician's order.

She knew her action was illegal and that it violated her employer's policies and that her employer could terminate her for it.

APPELLATE COURT OF ILLINOIS
August 2, 2013

The Appellate Court of Illinois ruled the medical center was justified in firing the medical assistant for cause.

The medical center's policies permitted care-giving employees to be terminated for any act that is unlawful, for example, calling in a prescription under a physician's name without the physician's knowledge or authorization, whether it was for a controlled substance, prescription medication or just a commonly available over-the-counter vitamin supplement.

The medical center's policies further permitted termination for forging, altering or intentionally falsifying any medical center documents or other documents or information. **Love v. Dept. of Employment Security**, 2013 WL 3973716 (Ill. App., August 2, 2013).