

## Disability Discrimination: Court Says One- Year Leave-Of- Absence Not A Reasonable Accommodation.

**A**fter a diabetic hospital employee had part of her foot amputated she was bedridden and unable to do any work. She asked for a one-year leave-of-absence, but instead was let go from her employment. The U.S. District Court for the Southern District of Florida upheld the hospital's decision to terminate her rather than grant her request. The court ruled there was no violation of the Americans With Disabilities Act.

***A person bedridden and unable to perform any work after major surgery is not a qualified individual with a disability.***

***An extended medical leave-of-absence for an employee unable to work is not required from the employer as reasonable accommodation to a disability under the disability-discrimination laws.***

UNITED STATES DISTRICT COURT,  
FLORIDA, 1995.

A person incapable of doing any work whatsoever while recovering from surgery is not a "qualified individual with a disability" as defined by law. There is no legal requirement for an employer to attempt to accommodate such a person's needs by offering an extended medical leave-of-absence with partial salary, the court said.

The hospital met its obligations by offering the option to re-apply for a vacant position after she had fully recovered. ***Dockery vs. North Shore Medical Center***, 909 F. Supp. 1550 (S.D. Fla., 1995).

## Involuntary Administration Of Psychotropic Medications: Court Rules A Patient Has The Right To Make A Choice.

***To justify the administration of psychotropic medication to a patient who states he or she does not wish to receive it, the patient must have a serious mental illness or developmental disability.***

***The patient's mental illness or developmental disability must be causing or have caused significant deterioration of functional ability over an extended period of time.***

***Because of the mental illness or developmental disability, the patient must lack the capacity to make a reasoned decision about the medication.***

***The benefits of the psychotropic medication must outweigh the harm.***

***This patient had received the same medication during a prior hospitalization, and experienced breathing difficulties as a side effect.***

***This patient was, in fact, capable of understanding the potential benefits and harm from the medication. He made his own reasoned decision he did not want to risk the same side effects from the medication again.***

APPELLATE COURT OF ILLINOIS, 1996.

**A** patient cannot be given a psychotropic medication involuntarily unless stringent legal preconditions are satisfied. To illuminate how these legal conditions should be interpreted, the Appellate Court of Illinois in a recent case looked around the U.S. for guiding precedents from other state courts.

The Wisconsin Supreme Court in 1994 ruled that if a patient has the capacity to identify the medication he or she is now refusing as one he or she has been given in the past, and can describe what happened in the past, that is, whether the effects were beneficial or harmful, and the patient does not hold any "patently false beliefs" about what happened with the medication in the past, but in fact is now trying to exercise a choice based on a legitimate understanding of the risks and benefits of the medication based on past experience, the patient's right to choose must be respected.

The New York Supreme Court in 1986 phrased it differently, but said essentially the same thing.

According to the Appellate Court of Illinois, the patient in this case had the capacity to make treatment decisions for himself. Based on objective information concerning the benefits and risks of the proposed treatment and the alternatives, he made a rational choice to refuse to be treated with the medication in question, because of past side effects he did not want to risk again.

The court was influenced to the patient as having the capacity to choose by the fact he had voluntarily signed himself in in the first place.

The court was not swayed by an admission tox screen being negative for the drug in question. This was no proof the patient was lying or having delusions about his past experiences with the medication. ***In re Israel***, 664 N.E. 2d 1032 (Ill. App., 1996).