

Race Bias: Nurse Must Identify Non- Minority For Comparison.

The US District Court for the Northern District of Illinois has reiterated the accepted test for race and age discrimination in employment.

A racial minority or person over forty years of age must show not only that he or she was treated adversely, but also that he or she was treated differently than a non-minority or younger person who was similar to him or her in all important respects.

There is no evidence that the hospital treated similar employees who were not African-American and/or under forty years of age more favorably than the nurse in question.

Instead, emergency room personnel on the physician's "hit list" of whom he wanted to eliminate were both African-American and Caucasian.

Whether that was right or wrong, it was not race discrimination.

UNITED STATES DISTRICT COURT
ILLINOIS
May 16, 2005

The court threw out an African-American nurse's discrimination lawsuit on the grounds that she could not identify a non-minority similar to her who was treated better. In fact, the physician/department director seemed to have it in for persons regardless of their race and actually did eliminate one Caucasian nurse as part of his strategies, the court said. Morris v. Michael Reese Hosp., 2005 WL 1162953 (N.D. Ill., May 16, 2005).

Medication Allergy: Nurse Gives Med, Court Finds No Medical Battery.

Medical battery is the common-law term for unauthorized medical treatment. Medical battery is wrongful conduct for which patients traditionally have been allowed to sue their caregivers for damages in civil court.

In a recent case a nurse gave codeine to a sixteen year-old PICU patient for intense pain six days after major surgery for spinal trauma. The parents had told the physician he was allergic to codeine, and that was red-flagged in his chart, on his ID bracelet, bed rails, room door, etc.

The nurse, when the parents objected, checked with the physician and gave Tylenol with codeine anyway, explaining that the patient had been getting codeine and nothing bad had been occurring. No adverse reaction occurred. The parents sued anyway for medical battery.

Treatment was authorized. The parents had signed a valid blanket medical authorization form which allowed caregivers to use their own judgment in treating the patient.

COURT OF CIVIL APPEALS
OF OKLAHOMA
April 1, 2005

The Court of Civil Appeals of Oklahoma upheld dismissal of the parents' lawsuit. Surgery and post-op care were authorized. No exclusions, restrictions or limitations were noted on the surgical consent form. Patients trying to substitute their judgment during the course of treatment is not the same as not having authorized treatment in the first place. Applegate v. Saint Francis Hosp., Inc., __ P. 3d __, 2005 WL 1124588 (Okla. App., April 1, 2005).

Fall In Nursing Home: Court Says Someone Should Have Been Given Responsibility.

During the day, there was always a specific member of the housekeeping staff who had the duty to inspect the nursing home's hallways for spills or anything else that posed a fall-risk hazard and to take care of the problem promptly.

The rest of the time, however, it was just up to the nurses and aides in general to keep the hallways free of slip-and-fall hazards like liquids spilled on the floor.

After the housekeeping staff went home at 3:00 in the afternoon, some specific person should still have been given the responsibility to inspect the floors in the hallways and to deal with any spills or other foreign substances present.

COURT OF APPEAL OF LOUISIANA
Rehearing Denied May 18, 2005

In a recent case, the Court of Appeal of Louisiana found fault with a nursing home's policy only during the day shift to nominate a specific person with responsibility to see that the hallways remained free of new slip-and-fall hazards such as liquids spilled on the floor.

The faulty policy was ruled to be the root cause of a family member's accident.

The court upheld an award of \$50,000.00 for negligence against the nursing home for a resident's brother who fell and was injured in the hallway at approximately 6:00 p.m. after leaving his brother's room. Williams v. Finley, Inc., 900 So. 2d 1040 (La. App., Rehearing Denied May 18, 2005).