Discrimination: Nurses Applied Hospital Policy Uniformly, No Racial Bias.

An individual came to the hospital's emergency room and told the nurses he needed a disability slip filled out by a physician. Adhering to hospital policy, the nurses refused to let him see a physician and told him to leave. He sued the hospital for racial discrimination.

The Court of Appeal of Louisiana found no racial bias and ruled the lawsuit should be dismissed.

The hospital had a policy that persons could see a physician only if they were referred to the hospital by a physician for admission and were admitted, or if they came in as emergency cases to the emergency room and were admitted through the emergency room. The hospital did not permit persons to see physicians at the hospital under other circumstances.

The court decided that the hospital's policy was reasonable. More importantly, the hospital's policy was being applied uniformly across the board to all persons without regard to their race, the court said. That negated the allegation of racial bias. **Colquitt v. Homer Memorial Hospital, 771**

Discrimination: Recovering Drug Addict.

As a recovering drug addict, the nurse was protected from discrimination by the Americans With Disabilities Act.

However, the US Court of Appeals for the First Circuit noted that even after she returned from rehab there still were continuing major irregularities in how she dispensed narcotics, which justified her termination. **Griel v. Franklin Medical Center, 234 F. 3d 731 (1st Cir., 2000).**

Syringe Used Twice: Court Rejects Suit Over Fear Of HIV / Hep B.

After a surgical procedure the anesthesiologist informed the patient there was a 50/50 chance he had used the same syringe to inject medication into her IV line he used to inject the previous patient's IV.

The previous patient tested negative for HIV and Hepatitis B. The patient herself repeatedly tested negative, but did get a full series of Hep B shots. The patient sued the anesthesiologist and the hospital.

By itself, fear of contracting HIV or Hepatitis B from a needle which actually is not contaminated is not a basis for a lawsuit.

However, the patient did have to undergo testing for HIV and Hepatitis B and had a series of inoculations for Hepatitis B, which she claimed injured her and left her with residual complications. She could file a malpractice lawsuit for that.

COURT OF APPEALS OF OREGON, 2000.

The Court of Appeals of Oregon, as other courts have done, ruled that a patient's unfounded fear of getting HIV, Hepatitis B or other communicable disease from a medical mix-up is not grounds for a lawsuit, assuming there is no objective scientific basis for any possibility of the patient becoming infected.

However, the court did rule the patient could sue for discomfort and for any objective physical complications from the testing and inoculations that were medically indicated. **Rustvold v. Taylor, 14 P. 3d 675 (Or. App., 2000).**

EMTALA: Court Rejects State Law Pre-Suit Requirements.

According to the US District Court for the District of Colorado, when medical facilities accept Federal Medicare and Medicaid funding, they implicitly give up special rights they may enjoy under state law. That principle applies whether the medical facility operates in the private or public sector.

That means that patients and family members who intend to sue hospitals under the Emergency Medical Treatment and Active Labor Act (EMTALA) do not have to go through state-law pre-suit legal requirements that apply to professional malpractice litigation. The court ruled that would unduly hinder private parties in pursuing the agenda for eliminating "patient dumping" the US Congress expressed when it enacted the EMTALA. **Bird v. Pioneer Hospital, 121 F. Supp. 2d 1321 (D. Colo., 2000).**

Failed Drug Test: Court Says Nurse Cannot Lose License.

According to the Missouri Court of Appeals, a failed drug test for marijuana and cocaine, in and of itself, does not prove the individual knowingly and intentionally possessed the controlled substances for which the person was tested.

The court agreed with the Board of Nursing that knowing and intentional possession of controlled substances is grounds to suspend or revoke a nurse's license, but by law a failed drug test alone does not prove that. **State Board of Nursing v. Berry, 32 S.W. 3d 638 (Mo. App., 2000).**