

Religious Discrimination: Nurse Fired For Preaching To Patients, Court Backs Hospital's Actions.

A Roman Catholic nurse worked as a telephone triage nurse.

Patients called the triage service to receive a brief assessment of their symptoms for the purpose of determining the appropriate level and priority for medical treatment.

The facility required its phone triage nurses to query the callers using a computer-based set of branching algorithms designed to sort patients into different risk categories. Nurses were required to proceed systematically through the algorithms to reach the appropriate level, timing and provider of medical care and were not allowed to make personal comments. The average call was to last nine minutes.

When asked for medical information, the nurses were instructed to refer to a predetermined list of approved information sources.

The facility had written policies against deviation from its standard algorithm practices, inefficient work performance, insubordination, behavior which created discord and distribution of printed materials on company time.

Nurse Brought In Her Religious Beliefs

The nurse told one caller to go to a priest to see if the caller had experienced a eucharistic miracle. She got in a heated debate with a caller who took the Lord's name in vain; the caller hung up. The nurse prayed with one caller and talked with another for an hour without entering any algorithm information on the computer.

The US Circuit Court of Appeals for the Tenth Circuit agreed with her employer that there were grounds to fire the nurse without liability for religious discrimination.

Healthcare employees are not permitted to use their own religious convictions as a basis to deviate from their employers' legitimate expectations that policies and procedures will be followed. Morales v. McKesson Health Solutions, 2005 WL 648216 (10th Cir., March 22, 2005).

Title VII of the US Civil Rights Act prohibits an employer from discriminating because of an employee's religion.

In this case there was no direct proof of any anti-Catholic bias by the nurse's supervisors.

Discrimination can still be proven indirectly if the employee can show she is a member of a religious faith and was qualified for her job but despite her qualifications was fired while others who were not members of the faith were not fired.

The employer must show a legitimate reason for disciplinary action if there is plausible indirect evidence of religious discrimination.

In this case the nurse repeatedly departed from the triage algorithms she was instructed to use in assessing the patients who called the facility's nurse-information line, after being warned.

An employer must provide reasonable accommodation to an employee's religious beliefs, but reasonable accommodation is not the issue in this case.

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT
March 22, 2005

Workers' Comp: Nurse Covered, Was Performing A Service For Employer Going For Food For Other Nurses.

An ICU nurse slipped and fell on the hospital's stairs and injured her hip. She filed for and was awarded workers' compensation.

The hospital appealed the award, arguing even though she was on the premises she was on a personal errand and was not performing services for her employer at the moment in time when she was injured. She was on her way from the hospital's ICU at 7:15 a.m. to get breakfast to-go from the hospital's cafeteria for herself and the other ICU nurses.

As a general rule an employee is not covered by workers' compensation for an injury on the employer's premises that occurs at a time when the employee is not actually performing services for the employer.

COURT OF APPEALS OF ARKANSAS
March 23, 2005

The Court of Appeals of Arkansas acknowledged the general rule that to qualify for workers' compensation an employee must be performing services for the employer and may not be on a personal errand at the moment of injury.

In this case, the court said, the nurse was performing a service for her employer. That is, her going to pick up breakfast for herself and the other ICU nurses allowed the nurses to remain at their posts in close contact with their patients without having to leave the ICU for a break. Arkansas Methodist Hosp. v. Hampton, __ S.W. 3d __, 2005 WL 668613 (Ark. App., March 23, 2005).