Religious Discrimination: Court Says Nurse Entitled To Reasonable Accommodation.

A staff nurse on the hospital's labor and delivery unit usually cared for patients having routine vaginal and cesarean deliveries. Elective abortions were performed on an outpatient basis in another department.

As a member of the Pentecostal faith she refused to participate in two emergency procedures on her unit. One was induction of labor with oxytocin for a ruptured membrane; one was a cesarean for a mother at eighteen weeks with placentia previa who was bleeding profusely.

The hospital determined her refusal could have compromised patient safety. She was told she had to leave labor and delivery. Because of staffing cutbacks she could no longer trade assignments with other nurses when her religion prevented her from doing something on the unit.

Right To Refuse

A nurse has the right to refuse to participate in medical procedures that go against the nurse's religious beliefs. It is religious discrimination for an employer not to honor that right, the court ruled.

Note From Her Pastor

The court said an employee does not need a note from a pastor or other religious leader to prove the content or sincerity of the employee's religious beliefs.

Reasonable Accommodation Was Offered And Was Refused

A nurse is entitled to reasonable accommodation for the nurse's religious beliefs, but what is reasonable?

The court ruled the hospital did offer reasonable accommodation. The nurse unreasonably refused, and that was the end of her religious discrimination lawsuit.

A transfer to the neonatal ICU with the same grade and salary was offered and refused. Then the nurse declined to sit down with the human resources director to talk about what else was available.

The court gave a judgment in favor of the hospital. **Shelton v. University of Medicine, 223 F. 3d 220 (3rd Cir., 2000).**

A nurse is entitled to refuse to participate in medical procedures that go against the nurse's religious beliefs.

A nurse is entitled to reasonable accommodation from the nurse's employer rather than having to resign or be terminated.

If the employer offers reasonable accommodation, the nurse must accept it.

There is no longer any discrimination after a nurse refuses an offer of reasonable accommodation.

Better yet, the employer can offer the nurse the opportunity to discuss what would be a reasonable accommodation, balancing the nurse's religious beliefs, work preferences, training and skills with the suitable positions the employer has available.

If the employer tries to open up a dialogue, the employee must participate in the dialogue.

There is no longer any discrimination after an employee refuses to participate in the interactive process of finding a mutually-acceptable reasonable accommodation.

UNITED STATES COURT OF APPEALS, THIRD CIRCUIT, 2000.

Asthmatic Reaction To Chemical Irritant Not A Disability, Court Says.

The head nurse at a kidney dialysis center developed asthma identified as a reaction to the glutaraldehyde used at the center as a sterilant for dialysis filters being stored in between treatments.

They refused to give the nurse another office twenty-five feet farther from where the filters were processed and stored, on the grounds the physicians said that would not relieve her symptoms.

The nurse had to quit. She found another head nurse position at another dialysis center that did not use the chemical, but took a $13,000 per year pay cut.

She sued the first employer for disability discrimination. The US District Court for the Eastern District of New York dismissed her lawsuit.

An asthmatic condition that prevents someone only from working at one particular job or at a narrow category of jobs is not a disability and does not qualify the person to sue for disability discrimination.

UNITED STATES DISTRICT COURT, NEW YORK, 2000.

Strictly speaking, this nurse did not have a disability.

According to the court, as the courts are interpreting the Americans With Disabilities Act, an idiopathic asthmatic reaction to a chemical irritant on the job that only keeps an individual from working at one particular job is not a disability as disability is defined by law. **Nugent v. Rigosin Institute, 105 F. Supp. 2d 106 (E.D.N.Y., 2000).**