

Employment Law: No Discrimination If Reduction In Force Is Based Strictly On Job Classification.

No employment discrimination will be found in a hospital's decision to eliminate certain employees in a reduction in force, if the decision is based strictly on job classifications and is not motivated by race, nationality, age or gender, the U.S. Circuit Court of Appeals for the Eighth Circuit (Missouri) has ruled.

A bona fide reduction in force was in effect at the hospital.

The hospital was motivated by economic necessity and guided by business judgment. Layoffs were based strictly on job classification, employment status, prior job experience, seniority and licensure and/or certification.

This employee could not prove the hospital was motivated by an intent to discriminate against her.

UNITED STATES COURT OF APPEALS,
EIGHTH CIRCUIT (MISSOURI), 1997.

A sixty-year-old woman of Filipino origin saw her position eliminated. She sued for employment discrimination, but her suit was dismissed by the court. The hospital convinced the court her blood gas technician position was eliminated while the position of pulmonary function technologist was retained because the skills of pulmonary function technologists are more advanced and more comprehensive. This made the retention of blood gas technicians redundant and a poor exercise of economic business judgment. Herrero vs. St. Louis University Hospital, 109 F. 3d 481 (8th Cir., 1997).

Suicidal Patients: Court Looks At Standards For Medical Surgical Nurses Caring For A Psych Patient.

A general acute care hospital is not held to the same high standard of care as a specialized psychiatric hospital that is staffed and equipped to meet the needs of suicidal patients.

The nursing staff acted reasonably under the circumstances. There were no specific orders from the admitting physician for restraints or suicide precautions. A nurse sat with the patient at his bedside and tried to calm him, but he knocked her down and ran off the unit, eluding two other nurses who were trying to grab him.

The nurses considered restraining the patient on their own, but declined, fearing that would feed into his paranoia and increase his agitation, an acceptable exercise of judgment for nurses with basic knowledge of psychosocial nursing concepts, but without specialized backgrounds in psychiatric nursing.

The nurses were not legally liable for the patient's injuries when he kicked out a third story window and jumped.

COURT OF APPEALS OF OHIO, 1996.

A patient was admitted to the intensive care unit of a general acute care hospital following an attempt to commit suicide by drug overdose. The admitting attending physician wanted to stabilize his medical condition while the family were supposed to be making arrangements to admit the patient to a psychiatric facility. That was proving difficult because of lack of insurance coverage.

At the time of admission, the hospital agreed to accept this patient to give him the medical care he acutely needed, but, realizing the hospital's limitations, a recommendation was made that the patient should be institutionalized at once in a specialized psychiatric facility. After the fact it surfaced that a psychologist had strongly recommended to the admitting physician that he not admit this patient to an acute-care facility but a psych hospital instead.

Meanwhile, the patient was becoming increasingly paranoid and delusional. A nurse sat at the bedside and tried to calm the patient. The nursing staff deliberated whether to restrain the patient in bed, but decided against it, fearing it would only compound the situation by raising his paranoia and his level of agitation. The patient got out of bed, knocked down the nurse in his room, fought his way past two other nurses who were trying to corral him, ran off the unit, kicked out a third-story window and jumped, fracturing his arm and sustaining other relatively minor injuries.

The Court of Appeals of Ohio ruled that the hospital's nurses were not negligent. They knew he was a danger to himself. Their actions were consistent with professional standards of practice for med/surg nurses in an acute-care hospital. They did not have and were not expected to have specialized psychiatric nursing training and would not be judged as if they did. Sabol vs. Richmond Heights General Hospital, 676 N.E. 2d 958 (Ohio App., 1996).