LEGAL EAGLE EYE NEWSLETTER
For the Nursing Profession

Sexual Harassment: Male Nurse's Case Will Go Forward.

A male nurse was having an affair with a physician at the hospital who was appointed acting medical director shortly before the nurse told her he was breaking up with her.

Before the breakup the physician had complimented the nurse's clinical skills in front of other staff members and had recommended him for the multidisciplinary team that made treatment decisions for the behavioral health hospital's patients.

After the breakup the physician's attitude changed. She told the human resources manager she wanted him fired. She approached a nurse manager and had him transferred to the p.m. shift so she would not see him at work. She got another manager to interview certain employees whom the male nurse supervised who allegedly reported that the male nurse was creating a disruptive and racially charged environment.

The US District Court for the Southern District of Ohio agreed with the nurse that the allegations in his lawsuit added up to a case of sexual harassment. **Clark v. Evergreen Southwest, 2014 WL 1775675 (S.D. Ohio, May 2, 2014).**

Family And Medical Leave Act: Court Sees Grounds For Interference Lawsuit.

An LPN in a state developmental center was terminated while out on Family and Medical Leave Act (FMLA) leave for her pregnancy.

The LPN was fired shortly after she requested FMLA leave whose timing interfered with her supervisor's own vacation plans, almost nine months after the supervisor first knew the LPN was pregnant.

The US District Court for the Northern District of Ohio saw no pregnancy discrimination, as most of the facility's employees were women and many had taken maternity leave.

Being out on leave, the LPN was given no opportunity to explain the alleged shortcomings which led to her termination, that is, there was no discussion of the extent to which she was or was not actually trained as to the expectations for her new service-coordinator position or advised about the cell-phone-use policy, before she was fired. The Court saw it as a case of interference with her FMLA right to reinstatement to her job. **Jones v. Elmwood Centers, 2014 WL 1761567 (N.D. Ohio, April 30, 2014).**

Visitor's Slip & Fall: Court Rules In Hospital's Favor Based On Nurse's Testimony.

The visitor, an elderly woman who had difficulty ambulating and used a walker, filed a $1,000,000 lawsuit after she slipped and fell on the floor of a hospital corridor directly in front of the nurse's station.

There was no question that the visitor had the right to be in that particular area of the hospital; she was visiting her brother who was a patient on the unit. There was no question she did fall and she did sustain injuries.

However, a the nurse who quickly came out from the nurses station to assist her when she fell testified there was no liquid or other foreign substance on the floor or anything out of the ordinary that could have caused someone to fall.

It was not relevant that the hospital's maintenance department came to the scene shortly afterward.

A hospital has legal responsibilities not only to its patients but also to family members and other visitors who have legitimate reasons to be in the hospital.

Slip and fall cases against hospitals generally arise out of liquids and other foreign substances on the floor in corridors and other open areas, or at least there are allegations that such substances were present.

UNITED STATES DISTRICT COURT
LOUISIANA
May 15, 2014

The US District Court for the Eastern District of Louisiana ruled there were no grounds for the patient's lawsuit, based on the nurse's straightforward recollection that there was no foreign substance on the floor when she went to the visitor's assistance.

For a hospital to be liable for injuries from a slip and fall, a foreign substance must have been on the floor and a hospital employee must have been aware of it and must have had time to take action but failed to take action before the patient, visitor or other victim slipped and fell.

The hospital could also be liable if a foreign substance was on the floor long enough that someone from the hospital should have noticed it and done something about it, but did not. **Connelly v. VA Hosp., 2014 WL 2003098 (E.D. La., May 15, 2014).**

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