

Tuberculosis: Resident Left In Nursing Home's General Population, Court Finds Class I Violation.

The Missouri Court of Appeals ruled it was a Class I violation for a nursing home to allow a resident with TB to remain the nursing home's general population, rather than isolate him or transfer him to another facility where he could receive proper care without endangering other patients.

Under state law a Class I violation is defined as a violation of a Class I standard. Class I standards are standards the violation of which would present either an imminent danger to the health, safety or welfare of any resident or a substantial probability that death or serious harm would result.

The court said on admission to the nursing home his medical history included exposure to TB, but the court did not elaborate. He developed severe respiratory problems that were eventually diagnosed as TB, but all the while he was left living among the other residents, possibly exposing them to TB as well.

None of the other residents came down with TB, according to the court.

The court noted it is illegal for a nursing home to admit or to continue to care for a resident whose needs cannot be met by the facility directly or in cooperation with outside resources.

It is not acceptable infection-control procedure not to make arrangements for prompt transfer of a resident having or suspected of having a communicable disease, and it is not acceptable not to report it to the proper public-health authorities when a resident is positively diagnosed with a reportable communicable disease, the court said. **State Department of Social Services, Division of Aging v. Carroll Care Center, Inc.**, 11 S.W. 3d 844 (Mo. App., 2000).

Student Loan: Contract With Hospital Is Valid, But Also Subject To Modification.

The Court of Appeals of Mississippi ruled that a nurse anesthetist's contract originally was valid to pay back the student loan the hospital made to her so that she could pursue her education.

By the original terms of the contract she was obligated to make regular monthly payments for ten years, and the entire \$41,000-plus balance would be due and owing immediately if she quit her job prior to the end of the five-year term of service stipulated in the contract.

But there was more to it. The hospital corporation's majority stockholder ordered the board of directors to declare bankruptcy. Concerned about their jobs, many employees started looking for new jobs, whether or not quitting would cause a student loan obligation to fall due.

The hospital administrator and the nurse anesthetist wrote up a contract addendum to keep the nurse anesthetist at the hospital. The contract addendum said the nurse would stay even though the hospital was on shaky financial ground and would give up future raises. In return the nurse anesthetist would be entirely excused from her student-loan debt obligation if the hospital administrator left the hospital either by quitting, being laid off or being fired.

Six months later the administrator resigned for reasons not specified in the court record. The nurse anesthetist stopped making her monthly student-loan payments. The loan was declared delinquent and the hospital sued her for the whole balance.

The court noted the administrator had authority in general to agree to contracts on the hospital's behalf, and the contract addendum with the nurse anesthetist was no exception. The administrator had resigned, so the nurse anesthetist owed nothing, the court ruled. **Union Healthcare Inc. v. Morgan**, 750 So. 2d 1268 (Miss. App.,

Physician/ Whistleblower: Court Accepts Nurses' Corroborating Affidavits.

A physician sued the hospital claiming his staff privileges were wrongfully suspended and that he was wrongfully terminated from his medical school faculty position for complaining to the hospital's peer review committee that a senior physician was impaired by mental illness.

The New York Supreme Court, Appellate Division, denied the hospital's petition to dismiss the whistleblower's lawsuit.

The court accepted signed affidavits from the hospital's nursing staff who had witnessed the senior physician acting suspicious, hostile and erratic. The nurses also stated that his patient care was substandard as a result.

The nurses' affidavits did not conclusively prove the whistleblower's allegations, the court said. The affidavits did satisfy the court there was enough credence to his allegations to justify going forward with a full civil jury trial. **Finklestein v. Cornell University Medical College**, 702 N.Y.S.2d 285 (N.Y. App., 2000).

Cheating On Exam: Court Upholds Firing.

The New York Supreme Court, Appellate Division, ruled recently that it is incompetency or misconduct justifying termination for a public health nurse to cheat on a written competency examination. The nurse's employer would be justified in terminating the nurse for cause, assuming there is solid proof the nurse actually cheated, the court ruled. **Claim of Wachtmeister**, 703 N.Y.S.2d 584 (N.Y. App., 2000).