Disability Discrimination: Nurse Refused To Look At Other Positions.

An RN was not able to return to her job as a care management coordinator after an on-the-job injury in which she fractured a bone in her foot and injured her neck, back, shoulder and right hip.

She actually was offered her same job back, if she had medical documentation that she could meet the physical demands. However, her physician's restrictions limited her basically to sedentary work with only limited standing and walking.

A human resources representative from the hospital offered to meet with the RN on a weekly basis to review current postings of available positions. The plan was to find a suitable available position or to discuss how an available position might be modified to suit the RN's limitations.

The RN insisted she would not take anything which was not a union nursing position or a position which involved a pay cut or a management position. That seriously limited her choices and no accommodation was found for her.

An employer is not required to create a new position, displace a non-disabled employee or give a disabled employee a position for which he or she is not already qualified.

UNITED STATES DISTRICT COURT
NEW YORK
March 3, 2014

The US District Court for the Southern District of New York ruled against the RN's disability discrimination case.

She was no longer a qualified individual with a disability as to her old position because she was not physically able to meet the essential demands, and she was unwilling to explore other reasonable accommodations the hospital was prepared to offer. **Seivright v. Montefiori Med. Ctr., 2014 WL 896744 (S.D.N.Y., March 3, 2014).**

Tracheostomy Care: Court Finds No Evidence Of Negligence.

The day after her tracheostomy, while the patient was being moved in bed by her nurses in order to bathe her, her tracheostomy tube accidently became dislodged.

The nurses noticed her O_2 sat drop. They attempted to ventilate her with an ambu bag through her trache tube, but saw that a subcutaneous emphysema was forming around the tube, an indication that air was going into the surrounding neck tissue and not into the tube.

The nurses quickly called in a physician critical care specialist who was on the unit at the time. The nurses also paged a pulmonologist and an anesthesiologist to the bedside.

The critical care specialist first tried to intubate her, and when that was unsuccessful as a last resort tried to force open and clear the tracheostomy opening with his fingers.

The physicians' and nurses' efforts were unsuccessful and the patient died.

The patient's family's expert witness was not able to define the applicable standard of care or point out how the hospital's nursing staff deviated from that standard.

NEW YORK SUPREME COURT
APPELLATE DIVISION
May 14, 2014

The New York Supreme Court, Appellate Division, was unable to find any evidence that the hospital's nurses departed from the standard of care.

The law does not assume a departure from the standard of care has occurred simply because an adverse patient care event has occurred in a healthcare facility followed by an unfortunate outcome. **DeLaurentis v. Orange Reg. Med. Ctr., __ N.Y.S.2d __, 2014 WL 1910328 (N.Y. App., May 14, 2014).**

Code: Intubation Supplies Not Available In ICU.

The adult patient came to the hospital with difficulty breathing, dizziness, nausea, vomiting and pain in his throat and ear. He appeared depressed and had difficulty with verbal communication.

He was taken to the ICU. IV fluids, insulin and medications to address his agitation and restlessness were ordered. He became increasingly agitated and unresponsive to verbal stimuli.

At 2:25 a.m. his heart rate and O_2 sat dropped suddenly. He was put on 100% O_2 by mask. Five minutes later his heart rate dropped to 39. A code was called. Chest compressions were started and he was ventilated with an ambu bag.

The patient was not intubated for almost forty-five minutes, by which time there was extensive permanent brain damage. The problem was that intubation supplies were not in the ICU room and were not brought to the room right away.

The standard of care requires a hospital to have intubation equipment and supplies immediately available in the ICU and ER, including a laryngoscope with blades of various sizes, endotracheal tubes of various sizes, laryngeal mask airways and naso- and oropharyngeal airways.

COURT OF APPEALS OF TEXAS
May 8, 2014

The Court of Appeals of Texas ruled the patient's family's expert correctly stated the applicable standard of care.

Being able to start rapid sequence intubation is a cornerstone of emergency airway management, the Court said.

The standard of care mandates that a hospital must have essential equipment and supplies immediately available in the ICU and ER and stocked on the crash cart to be brought to patient rooms. **Navarro Hosp. v. Washington, 2014 WL 1882763 (Tex. App., May 8, 2014).**