

Whistleblower: Nurse Was Victim Of Retaliation.

An LPN was terminated after he reported to a supervisor the alleged negligence of a nursing co-worker which the LPN believed caused the death of a patient who died in the hospital.

The LPN sued, claiming violation of his rights under several state statutes, including a catch-all employee whistleblower protection law and a whistleblower protection law which pertains specifically to health care workers.

The LPN was fired for two offenses which ostensibly would be grounds for a nurse's termination.

He failed to watch his patients actually swallow their meds and he copied confidential medical records for use in his legal case.

However, when he was accused several times in the past he admitted that he did not watch patients swallow meds. Other nurses had copied medical records.

Now he and only he was fired shortly after reporting his co-worker's negligence.

COURT OF APPEALS OF MICHIGAN
June 3, 2014

The Court of Appeals of Michigan upheld a substantial jury verdict in his favor against his former employer.

The former employer's stated reasons for terminating him were violations of medication administration procedures and breaches of medical confidentiality.

Both reasons would have been valid grounds to terminate a nurse's employment except for the fact these offenses were routinely tolerated with him and others up until the time he became a whistleblower. *Landin v. Healthsource*, __ N.W. 2d __, 2014 WL 2503754 (Mich. App., June 3, 2014).

Sexual Harassment: Tech's Case Dismissed.

A hospital technician had his scheduled working hours cut back just three days after he lodged a complaint with his supervisor about inappropriate conduct by a female co-worker.

His co-worker slapped him on his rear end twice while he was speaking with another female co-worker. The other co-worker corroborated his complaint.

After investigating the incident by obtaining statements from all who were involved or who witnessed the incident, the director of nursing reprimanded the perpetrator.

The tech sued his former employer alleging he was sexually harassed and suffered retaliation by having his hours reduced for reporting sexual harassment.

As a rule, one isolated incident that amounts to simple teasing is not sufficient to create a physically threatening, intimidating or humiliating work environment that unreasonably interferes with an employee's working conditions.

UNITED STATES DISTRICT COURT
TEXAS
June 17, 2014

The US District Court for the Southern District of Texas dismissed his case.

The one isolated incident with his co-worker was not sufficiently severe or pervasive as to create a sexually hostile work environment, and the employer's response was quick and appropriate.

The facility had proof that it had already planned to cut back staff hours in the tech's department before this incident occurred, which in the Court's judgment undercut the tech's claim there was a retaliatory motive involved with him. *Jones v. Diversicare*, 2014 WL 2739299 (S.D. Tex., June 17, 2014).

Religious Bias: Nurse's Lawsuit Dismissed.

A hospital nurse overheard a conversation between two co-workers about a prospective purchase of a camper trailer.

One of them said he was going to try to "Jew down" the seller to lower the price.

The nurse, a member of the Jewish faith, complained to her nursing supervisor the next day.

The supervisor agreed to speak with the co-worker, posted a copy of the hospital's anti-harassment policy in the nurses' break room and sent out an email to the hospital's nurses and nursing assistants reminding them to be more careful and sensitive in choosing their language around patients, families and co-workers.

The nurse herself was terminated several months later after a series of patient complaints and excessive unscheduled absences.

She sued for religious discrimination.

As a rule, a single, isolated offensive comment is not sufficient to prove religious discrimination.

UNITED STATES DISTRICT COURT
MISSOURI
June 4, 2014

The US District Court for the Eastern District of Missouri turned down the nurse's religious discrimination lawsuit.

The one remark by her co-worker was the only anti-Semitic statement the nurse could say she had ever heard anyone utter at the hospital. Appropriate corrective action by her supervisor followed promptly after her complaint about the one incident.

At the time of her termination the nurse was not meeting her employer's legitimate expectations. Her disciplinary issues gave the hospital a legitimate, non-discriminatory reason to fire her which had nothing to do with religion. The person who made the actual decision to fire her had no connection to the offensive anti-Semitic remark and there was no evidence of any bias on his part. *Shirrell v. St. Francis Med. Ctr.*, __ F. Supp. 2d __, 2014 WL 2515388 (E.D. Mo., June 4, 2014).