

T E X ★ S Hospitals

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Case in Point

Disability Discrimination in Health Care

Under the Americans with Disabilities Act, employers are prohibited from discriminating against people with disabilities in the provision of benefits or services or the conduct of programs or activities on the basis of their disability. As the two recent cases described below attest, failure to comply with the law may prove costly, even to health care entities.

FORMER OPERATING ROOM SCRUB TECHNICIAN RECEIVES \$100,000

St. John Health System Inc. of Tulsa paid \$100,000 and furnished other relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission. The EEOC had charged that the company violated the Americans with Disabilities Act by failing to reasonably accommodate a hearing-impaired operating room scrub technician.

According to the EEOC's suit, LaQuita Reheman had been employed by St. John for approximately six years when she was removed from her scrub technician position in March 2006 after several physicians complained about her being hard of hearing. Reheman wears hearing aids in both ears, the EEOC said, but would have been able to hear doctors' instructions adequately if it were not for their practice of playing loud music in the operating room. These disturbances, coupled with her hearing impairment, caused the problems, the EEOC said.

Reheman made it known to St. John that she needed assistance in finding another position, but the hospital made no effort to assist her. The hospital put her in another position temporarily and then told her to find a new job in the hospital system. St. John terminated Reheman in June 2006 after she proved unable to find a vacant position.

Under the terms of the consent decree, St. John agreed to pay Reheman \$100,000 as damages. The company also agreed to provide disability discrimination training to all management and supervisory employees and to report all requests for reasonable accommodation to the EEOC for the next three years.

NURSE WITH DIABETES RECEIVES \$142,500

Hudson Valley Hospital Center Inc., a community hospital bordering Peekskill, N.Y., paid \$142,500 to a former nurse to settle a disability-discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission in 2007.

The EEOC's lawsuit charged that the hospital discriminated against Glorianne Romano on the basis of her disability, Type I "brittle" diabetes, after she experienced a diabetic coma for which she was treated there. Specifically, the lawsuit charged that the hospital failed to grant Romano a reasonable accommodation to permit her to modify her part-time work schedule as an employee health nurse so that she would work three days in a row rather than alternate work days. Romano's treating doctor submitted documentation stating that she needed a more consistent schedule to enable her to gain better control over her diabetes.

Although the hospital initially granted the request for schedule modification, and Romano previously had worked a similar schedule without problems, the hospital withdrew the schedule accommodation, stating that it unduly disrupted the hospital's business operations. The EEOC charged that the hospital endangered Romano's physical health and effectively terminated her employment by refusing to accommodate her request to work the modified part-time schedule.

In addition to the \$142,500 in back pay and compensatory damages for Romano and the payment of attorneys' fees to her private attorney, the 26-month consent decree enjoins Hudson Valley Hospital from engaging in further disability discrimination or retaliation. It also provides for maintenance and distribution of procedures for responding to accommodation requests; anti-discrimination training for employees, managers and the hospital's human resources department; monitoring and reporting; and the posting of a notice about EEOC and the lawsuit. ★

"Case in Point" is a regular column from the Texas Hospital Insurance Exchange, a Texas Hospital Association subsidiary that provides property/casualty insurance products and services to health care providers in Texas. The information in this column came from press releases issued by the U.S. Equal Employment Opportunity Commission. Reprinted with permission from *Texas Hospitals*, September/October 2010, a publication of the Texas Hospital Association.