

Hospital Employee Properly Fired for Failure to Disclose Drug Abuse, Third Circuit Finds

Posted on April 5th, 2013

By *Yvette Gatling*



Although former drug addicts are protected by the Americans with Disabilities Act (ADA), the Third Circuit recently held that a hospital legitimately fired a recovering drug addict who lied about his treatment when he was hired. The court's determination in *Robert Reilly v. Lehigh Valley Hospital* emphasizes the importance of basing adverse employment decisions on legitimate, nondiscriminatory reasons, and following proper protocol with respect to an employee's health information.

In this case, a hospital security guard completed a six-page employee health information form after receiving a conditional employment offer. On this form, he denied being diagnosed with or treated for alcoholism or drug addiction. After one of his shifts, the security guard went to the emergency room of the hospital where he worked for an eye injury that he believed he had sustained on the job. While being treated, he revealed to the treating physician that he had a history of narcotics use and

was a recovering drug addict. The treating physician noted this history on the Emergency Department Physician Clinical Report. This report was sent to the hospital's health services department, which manages workers' compensation injuries. Shortly thereafter, the department notified Human Resources that the employee was a recovering addict and had not been truthful on his employment form. As a result, the hospital terminated his employment for failure to disclose that he was a recovering addict.

The security guard sued the hospital claiming he was terminated because he was a recovering drug addict, in violation of the ADA and the Pennsylvania Human Relations Act. However, the security guard was unable to show that the employer's reason for his termination – that he lied on his employment application – was a pretext for disability discrimination. Therefore, the Third Circuit upheld the lower court's summary dismissal of the employee's discrimination claims. Although the ADA specifically protects former drug addicts who are no longer using illegal drugs, the hospital terminated the security guard for his dishonesty, which is permissible. The court declined to consider the employee's claim that the hospital violated the ADA by disclosing his medical records to the human resources department after his visit to the emergency room because it was not properly pled in the lower court. That issue remains a potentially troubling one for healthcare employers who treat their own employees, and employers are cautioned to consult with counsel about the appropriate course of action in these situations.

Photo credit: [Tupungato](#)

Posted in [Discrimination](#), [Hospitals](#)



Print

TAGS: [Medical Records](#), [Reilly v. Lehigh Valley Hospital](#)

Published by [Littler](#)

Littler's Healthcare Employment Counsel blog provides timely broad-based coverage and insight by into critical issues and developments unique to employers in the healthcare industry.

Topics

[ADA](#)
[Class Actions](#)
[Compensation](#)
[Credentiaing and Staff Privileges](#)
[Discrimination](#)
[DOL and Other Government Agencies](#)
[Employment Taxes](#)
[Events](#)
[Hospitals](#)
[Labor Relations](#)
[Legislation and Regulations](#)
[Medical Privacy and HIPAA](#)
[Nurse-Patient Staffing Ratios](#)
[Nurses](#)
[OFCCP](#)
[Physicians](#)
[Publications](#)
[Residents and Interns](#)
[Uncategorized](#)
[Unfair Competition & Trade Secrets](#)
[Wage & Hour](#)
[Whistleblowers and Retaliation](#)
[Workplace Safety](#)
[Workplace Violence](#)

Search



Stay Connected

Subscribe to this blog via RSS

Subscribe to this blog by email

Email

Recent Posts

GO

Hospital

[Employee Properly Fired for Failure to Disclose Drug Abuse, Third Circuit Finds](#)
[DOL Releases Brief Offering Tips for Healthcare Industry Employers on their Aging Workers](#)
[Federal District Court Affirms U.S. Department of Labor's Position that Healthcare Providers Participating in HMOs for Federal Employees are Subject to Federal Contractor Affirmative Action](#)

[Requirements](#)

[Senate Vote Signals Growing Bipartisan Support for Repeal of Medical Device Tax](#)

[Hot Wage and Hour Issues for Home Healthcare Employers](#)

Archives

[April 2013](#)
[March 2013](#)
[February 2013](#)
[January 2013](#)
[December 2012](#)
[November 2012](#)
[October 2012](#)
[September 2012](#)
[August 2012](#)
[July 2012](#)
[June 2012](#)
[May 2012](#)
[April 2012](#)
[March 2012](#)
[February 2012](#)
[January 2012](#)
[December 2011](#)
[November 2011](#)
[October 2011](#)
[September 2011](#)
[August 2011](#)
[July 2011](#)
[June 2011](#)
[May 2011](#)
[April 2011](#)
[March 2011](#)
[February 2011](#)
[January 2011](#)
[December 2010](#)
[November 2010](#)
[October 2010](#)
[September 2010](#)
[August 2010](#)
[July 2010](#)
[June 2010](#)
[May 2010](#)
[April 2010](#)
[March 2010](#)
[February 2010](#)

Links

[Digital Workplace Blog](#)
[Employee Benefits Counsel](#)
[Global Employment Law](#)
[Global Mobility & Immigration Counsel](#)
[Labor Relations Counsel](#)
[Unfair Competition & Trade Secrets Counsel](#)
[Wage & Hour Counsel](#)
[Washington DC Employment Law Update](#)
[Workplace Privacy Counsel](#)

Little

Healthcare Employment Counsel

Little Mendelson PC

Privacy Policy

Disclaimer