Lawsuit Claims Nursing Home Fired Employee Because He Has HIV

The Americans with Disabilities Act protects workers with HIV from discrimination.

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The Granite Mesa Health Center in Texas, is being sued for disability discrimination and retaliation for allegedly firing a certified nurse assistant after he disclosed he was HIV positive, according to a press release from the U.S. Equal Employment Opportunity Commission (EEOC), which filed the lawsuit.

The nursing home demanded that its employee provide his HIV test results in order to keep his job, according to the lawsuit, and when he requested a copy of the written policy requiring his disclosure, he was discharged. What's more, after the employee disclosed his HIV-positive status, the nursing home unlawfully required a medical examination.

The Americans with Disabilities Act (ADA) protects employees with disabilities, including HIV, from harassment, discrimination and termination based on the disabilities. The ADA also protects workers from being forced to undergo medical exams that are not job-related.

"Federal law prohibits requiring an employee to submit his HIV test results as a condition of his continued employment where the employee's job duties do not pose a risk of transmission," said EEOC senior trial attorney Patrick Connor in the press release. "The limited avenues for transmission of HIV/AIDS have long been understood by the medical and health care community. The employer here nonetheless made decisions based on unfounded fears and misperceptions rather than on correct, current medical knowledge about HIV infection."

Supervisory trial attorney Eduardo Juarez of EEOC's San Antonio field office added, "All employers, and especially medical employers, should understand how HIV is and is not transmitted, and how to practice the universally recognized safe procedures already used for all other health care work. This blatantly discriminatory discharge decision had nothing to do with the employee's ability to do his job competently, effectively and safely, particularly since his job duties did not require him to perform invasive procedures."

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