

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

HEATHER MACINDOE REARICK,	:	CIVIL ACTION – LAW
Plaintiff	:	
	:	
v.	:	NO. 07-02,902
	:	
SUSQUEHANNA REGIONAL	:	
HEALTHCARE ALLIANCE t/b/a	:	
SUSQUEHANNA HEALTH,	:	
Defendant	:	

OPINION

This opinion addresses the defendant’s preliminary objections to plaintiff’s complaint alleging wrongful discharge. The defendant argues the plaintiff has not stated a claim as a matter of law, with respect to the creation of a public policy exception to at-will employment. The court agrees, and will grant the preliminary objections.

The plaintiff is a Registered Nurse who worked for the defendant for sixteen years. She was terminated on June 1, 2007. The stated reason for termination was that she violated the defendant’s HIPPA policy by accessing confidential patient information on the hospital’s computer system, without having a reasonable work-related need for the information.

The law on wrongful discharge in Pennsylvania is well established. Pennsylvania recognizes the at-will employment doctrine, with a few narrow public policy exceptions. These exceptions fall into three categories: an employer (1) cannot require an employee to commit a crime, (2) cannot prevent an employee from complying with a statutorily imposed duty, and (3) cannot discharge an employee when

specifically prohibited from doing so by statute. Spierling v. First American, 737 A.2d 1250, 1252 (Pa. Super. 1999). Additionally, the courts may, in appropriate cases, announce that a particular practice violates public policy, but such power is limited, and “is to be ascertained by reference to the laws and legal precedents and not from general considerations of supposed public interest.” Shick v. Shirey, 716 A.2d 1231, 1237 (Pa. 1998).

The plaintiff alleges a public policy exception should apply to her termination because as the RN Charge Nurse of the Psychiatric Unit, she was bound by nursing and hospital regulations to ensure there were a sufficient number of nurses on duty to provide adequate psychiatric treatment consistent with the treatment plans for the psychiatric patients. In short, she claims she checked confidential patient records to find out how many patients would be admitted to the Psychiatric Unit, so that she could properly staff the unit. The plaintiff does not, however, aver that she was required to check the confidential patient records, that it was necessary to check them, or that she would have been threatened with sanctions had she not checked them.

The plaintiff cites two regulations to support her position. The first regulation is found at 28 Pa. Code §109.6(b)(1), regarding nursing personnel requirements for hospitals, which requires “[s]taffing patterns which reflect the quality and quantity of various categories of nursing personnel necessary to carry out the nursing care program.” The second regulation is found at 49 Pa. Code §21.18(a)(1), regarding registered nurses, which states that a registered nurse shall “[u]ndertake a specific practice only if the registered nurse has the necessary knowledge, preparation, experience and competency to properly execute the practice.”

Regulations may constitute a source of public policy. Yetter v. Ward Trucking Corp., 585 A.2d 1022, 1026 (Pa. Super. 1991). However, the regulations the plaintiff has provided are far too vague and general to support the plaintiff's specific claim that she was under an obligation to access confidential patient information. In short, plaintiff's claim to a public policy exception falls far short of the clear mandate demanded by caselaw.¹ To allow plaintiffs to gain access to the public policy exception by hanging their hats on such general statements such as those offered by the plaintiff would surely open the floodgates of wrongful discharge suits, and would turn the exception into the rule. To accept plaintiff's argument would make the courts the supervisors of hospital staffing, which is clearly not sound public policy.

The public policy exception is limited to terminations of employment that have violated significant and recognized public policies, which strike at the heart of a citizen's social rights, duties, and responsibilities. Yetter, supra, 585 A.2d at 1026; Hineline v. Stroudsburg Electric Supply Co., Inc., 559 A.2d 566 (Pa. Super. 1989), *allocator denied*, 574 A.2d 70. We do not have such a policy here.

As stated by the Pennsylvania Supreme Court in Geary v. U.S. Steel Corporation, 319 A.2d 174, 184 (Pa. 1974),

Where the complaint itself discloses a plausible and legitimate reason for terminating an at-will employment relationship and no clear mandate of public is violated thereby, an employee at will has no right of action against his employer for wrongful discharge.

¹ In contrast to the vague regulations cited by the plaintiff, we note the very clear mandate regarding patient privacy, and violations of HIPPA.

Since the complaint discloses the plaintiff was fired for violating the defendant's HIPPA policy, and since plaintiff was under no regulatory duty to access confidential patient information, we must conclude the plaintiff clearly and without a doubt fails to state a claim for which relief may be granted.

ORDER

AND NOW, this _____ day of March, 2008, for the reasons stated in this opinion, the Preliminary Objections filed by the defendant are granted and the plaintiff's complaint is hereby dismissed.

BY THE COURT,

Richard A. Gray, J.

cc: Marc Lovecchio, Esq.
David Smith, Esq.
Gary Weber, Esq.