Defamation alleged when physician uncouthly questions RN with Doctor of Nursing Practice (DNP) Degree using title “Dr.”

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In my blogs, I have mainly discussed cases where an injured patient or a family member sued a nurse due to his or her professional negligence or other causes of that injury by the nurse.

You may think that the law is not on your side when you read about these cases. What is important for you to know, however, is that as an RN, LPN, or APRN, you can be a plaintiff in a lawsuit when your legal protections are infringed.

In the following Federal District Court case (Alexander v. Sanchez Trejo, US District Court for the Northern District of Mississippi, Aberdeen Division, 2024), an RN with a Doctor of Nursing Practice Degree (DNP) sued a physician for defamation.

Facts Leading up to Case Filing

The DNP RN was employed by a hospital as the Director of Inpatient Nursing. The physician had various practicing privileges at the same hospital.

On one particular day, the DNP RN was working in a uniform with a badge that stated: “Doctor Alexander”. While at a nurses’ station, the following dialog took place:

> “Sanchez (MD): Who is Dr. Alexander?
>
> Alexander: I’m Dr. Alexander
>
> Sanchez: Who did you sleep with to get that title?
>
> Alexander: Excuse me, what did you just say to me?
>
> Sanchez: Who did you sleep with to get that title?”

Three staff co-workers were at the nurses’ station and overheard the exchange.

DNP Files Lawsuit

The DNP RN filed a lawsuit in state court alleging defamation (of character) and intentional infliction of emotional distress. She also alleged she incurred monetary damages in the form of medical expenses, lost wages, and suffered emotional distress "due to anxiety, reduction of pleasure in her work, and being held up to ridicule."

The physician asked for, and was granted, removal of the case from state court to the Federal District Court on diversity grounds. He then filed a Motion to Dismiss the case.

District Court Reviews Pleadings and Applicable Law, and Renders a Decision

In determining its decision, the Court dealt with each of the DNP RN's allegations in light of state law and previous court decisions.

As to the DNP RN's allegation of defamation, the Court opined it was clear that the physician's words were not "speculation and conjecture" but were "direct and clearly suggest that Alexander slept her way into obtaining her Doctor title."

The Court continued that a jury could reach this conclusion without speculation as to their meaning, so the DNP RN sufficiently pled a defamatory statement. As such, her allegation survives a Motion to Dismiss.

The physician's attempt to dismiss the DNP RN's allegations of special harm was also not accepted by the Court. The physician's position was that the DNP RN did not suffer any "adverse employment or harm to her reputation" as a result of his comments. He also argued that his comments did not meet slander *per se* (relating to her profession, trade or business).

The Court held that there was no question about the physician's words relating to her profession and were spoken at work in front of nursing staff members.

The Court again held that those words, within the context in which they were uttered, could tend to hold the DNP RN up to "ridicule and embarrassment" in her profession.

As such, she properly stated a claim for defamation.

The DPN RN's allegation of intentional infliction of emotional distress could not, however, survive in the lawsuit. The Court held that she did not provide specific, factual details of such distress. Rather, she simply pled this allegation as a conclusion.

The Court granted dismissal of the emotional distress claim *with prejudice*, meaning that it could not be raised again. The Court granted her claim of defamation and instructed the Magistrate Judge to continue with the case consistent with its ruling.

What This Case Outlines for a Defamation Case

Defamation is a “twin tort”, composed of libel (written word(s)) and slander (spoken word(s)). This case involved slander.

It is important to note that whenever there is a potentially defamatory statement or statements, either written or oral, that bears upon you in your profession, and it is published to another person or persons, an allegation of defamation *per se*, must be considered. This means that damages to you are presumed and do not need to be proven if the evidence of defamation is consistent with the legal requirements.

Although the outcome of this case is yet to be determined, it appears that the DNP RN’s case may be a winning one for her.

The physician’s comments were clearly out-of-line, spoken in the presence of others, and were aimed at doubting the DNP RN’s accomplishments in obtaining her doctoral degree and subsequently practicing in an advanced nursing role.

It is hoped that you never have to experience the speaking (or writing) of words that question your professional accomplishments being earned through sexual favors or other untrue bases.

If you do, though, it is important that you seek a consultation with a nurse attorney or attorney in order to determine if you have a case for defamation of character, and, if so, follow through with your legal options.

Because you are a private person, any alleged defamatory statement about you is not in violation of the speaker’s United States (and state constitutions) First Amendment rights to free speech. As a result, the speaker cannot raise a free speech defense to defamatory words spoken about you.

Also keep in mind that any alleged defamatory statement must be published (spoken or written) to another person, as occurred in this case. If the statement in this case were said to the DNP RN in private where no one but the DNP RN heard the statement, no case could be filed alleging defamation.

This is an important caveat for you in your nursing practice. If you have something to say to a fellow nurse about his or her nursing practice, or about the nurse personally, it is essential that you do so in private with no other staff or other persons present.

Truth is an absolute defense against defamation allegations, so it is important that any comment or writing about another is accurate.

And never repeat information about another staff member unless you know it is true. Republishing defamatory information can result in the aggrieved person adding you as a defendant (along with the original speaker) in his or her lawsuit for spreading the untrue statement(s).

This information is for educational purposes only and is not to be taken as specific legal or other advice by the reader. Nor does it create an attorney-client relationship. If legal or other advice is needed, the

reader is encouraged to seek such information from a nurse attorney, attorney or other professional.