

L.I. nurse lawsuit claims he was fired after daughter got cancer

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Daniel McCarthy, and his daughter, Cassidy. McCarthy's lawyers are a lawsuit saying his former bosses canned him because they didn't want to deal with the time off he needed to take care of Cassidy. (HANDOUT)

A Long Island nursing home was totally fine with Daniel McCarthy caring for its patients — just not his own cancer-stricken little girl, according to a new Brooklyn federal lawsuit.

McCarthy was a life-saving, award-winning registered nurse who rose quickly at Daleview Care Center in Farmingdale and enjoyed the work there.

But the caregiver's lawsuit says everything changed once McCarthy told bosses his 5-year-old daughter, Cassidy, had Stage Four kidney cancer.

About three months after telling his employers the news about Cassidy, he said they made a tough situation worse by firing him — and leaving him with no insurance to pay for Cassidy's treatments.

McCarthy said he was canned on a flimsy insubordination claim after McCarthy questioned different punishments for a black employee and a white employee who broke the same rule about refusing to take a flu shot and not wearing a facemask with patients.

"I became a liability, instead of an asset," McCarthy, 42, told the Daily News.



Daniel McCarthy, and his wife, Jessica, with his five year old daughter, Cassidy, who had Stage Four kidney cancer, at their home in West Babylon. (DAVID WEXLER/FOR NEW YORK DAILY NEWS)

Cassidy's gotten a sense of the fight her father's in. "Dad, you shouldn't have told I have cancer," McCarthy recalled Cassidy saying. "It's not your fault," he remembered responding.

Lawrence Pearson, McCarthy's attorney at Wigdor LLP, said his client dedicated himself to Daleview's residents for years.

"But when he needed time to care for his own daughter, he was given push-back and fired on a thin pretext. Mr. McCarthy was trying to protect Daleview's interests and do the right thing by calling out discrimination, and his legal rights were violated in return."

Daleview's nursing home administrator, Mary Kochaniwsky, did not respond to requests for comment.

McCarthy said he knew he wanted to be a nurse since witnessing the difference they made when his father died of pancreatic cancer over ten years ago.



McCarthy claims that Daleview Care Center in Farmingdale fired him just months after he told his employers his daughter Cassidy had cancer. (GOOGLE MAPS)

“The comfort they give is unbelievable,” he said.

By the time McCarthy got to Daleview in 2011, he already had years of experience in the field. He came in as an RN supervisor and rose to assistant director of nursing. He got raises, more responsibility and accolades along the way. In May 2015, he was hailed as a hero for reviving a patient. In June 2016, McCarthy was named the registered nurse of the year by the New York State Health Facility Association — and it was Daleview that recommended him.

Four months later, McCarthy got the news about Cassidy, the oldest of the family’s three kids.

His suit said he “expected sympathy and understanding from Daleview, but instead the center and its management responded with hostility.”



Daniel McCarthy's suit said he "expected sympathy and understanding from Daleview, but instead the center and its management responded with hostility." (DAVID WEXLER/FOR NEW YORK DAILY NEWS)

It started as soon as McCarthy's immediate request for a couple weeks off to help Cassidy. The suit said they fussed about him using earned vacation time and pressed him to use paid sick time. They eventually gave in.

In December 2016, Cassidy caught the flu during chemo and radiation and McCarthy got it from her. While out sick, he said he asked nursing home director Kimberly Deschamps if he could take time during his daughter's next couple days of chemo. She allegedly insinuated "he was taking an impromptu vacation."

McCarthy said he moved to the early shift to do his work and be with Cassidy.

Around this time McCarthy starting taking his belongings home, said his suit. "He sensed that his days at Daleview were now numbered due to his daughter's medical needs and his resulting need for additional time off."

It all boiled over when McCarthy said he was going to suspend a nurse who didn't get a flu shot and didn't wear a facemask. It was the same consequence for a black housekeeper about a year earlier.



Cassidy McCarthy, who had Stage Four kidney cancer, at her home. (DAVID WEXLER/FOR NEW YORK DAILY NEWS)

Kochaniwsky and Deschamps first agreed, but backed off when the nurse protested. McCarthy said he objected to a written warning and clocked out.

He got a voicemail saying he was suspended until further notice. When he came in two days later, he was given a written notice saying he was being fired for insubordination. He said he was also given an offer for three months of COBRA and other things if he signed a non-disparagement agreement. He didn't do it. Cassidy's chemo went longer than three months, he said. McCarthy got a new nursing job last month, making home visits to patients. But the benefits haven't kicked in yet. McCarthy, a volunteer firefighter in West Babylon, paid for benefits in February.

The Heather Pendergast Fund, a fund for seriously ill kids of Long Island volunteer firefighters and EMS, is covering the COBRA premium through May.

Right now, McCarthy said the family is pressing ahead. He's suing to right the wrongs he said happened to him and expose what happened.

As for Cassidy, "She'll get through," her dad said.