

LEGAL EAGLE EYE NEWSLETTER

*For the Nursing Profession*

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## Anti-Gay Bias: Court Upholds Hospital's Right To Fire Employee For Discrimination And Abuse.

The New York Supreme Court, Appellate Division, recently upheld the state Unemployment Insurance Board's refusal to pay unemployment benefits to a hospital phlebotomist who was fired from her job.

The court said her conduct which resulted in her dismissal crossed the legal line which defines employee misconduct justifying termination.

According to the court record, she became verbally abusive toward a male patient and advised the patient, who she knew was homosexual, that he was a sinner and would be going to hell.

She also made similar comments toward the patient's companion, who she knew was homosexual also, and in addition told the companion his tattoos were signs of the devil.

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***A hospital has the right to have policies that forbid employees from discriminating against patients based on their sexual orientation or verbally abusing patients or family or even acting inconsiderately toward them.***

***This employee was aware of the hospital's policies.***

***An employee can be fired for deliberately ignoring the employer's policies.***

NEW YORK SUPREME COURT,  
APPELLATE DIVISION, 2000.

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The employee admitted making the remarks to the patient but denied ever speaking with his companion.

The court said any employer would be within its rights to fire an employee for deliberately refusing to comply with the employer's legitimate established policies of which the employee has been made fully aware.

The court ruled a healthcare facility has the right to have and to enforce policies against discrimination against patients based on their sexual orientation and against verbal abuse of patients and family members.

A healthcare facility can enforce those policies by firing a deliberate offender without adverse legal repercussions, the court said. **Claim of Campbell, 706 N.Y.S.2d 492 (N.Y. App., 2000).**