

## Labor Law: US Court Discusses Public-Policy Exception To Enforcement Of Arbitrator's Ruling.

Public policy for labor/management relations tells the courts to stay out of disputes covered by collective bargaining agreements unless one side or the other refuses to abide by an arbitrator's interpretation of the agreement and the authority of the Federal judiciary is needed, not to review, but simply to enforce the arbitrator's ruling.

Public policy for the health care industry strictly forbids abuse and neglect of vulnerable patients by caregivers and requires healthcare employers to remove employees who have been found guilty of such abuse or neglect.

The US District Court for the Eastern District of Michigan had to decide a case in which these two strongly-held public policies seemed to collide.

The night-shift aide was fired after the day-shift aide reported finding a

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***A healthcare employer is not bound to accept and may file suit to challenge an arbitrator's interpretation of the collective bargaining agreement that ostensibly requires the employer to do something which violates public policy.***

***Restoring an aide to her job after she abused or neglected a patient, even if so ordered by an arbitrator, would violate public policy.***

UNITED STATES DISTRICT COURT

MICHIGAN  
June 19, 2009

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patient lying in bed fully clothed in his own urine-soaked clothing an hour after the day shift had started.

The arbitrator ordered reinstatement. The District Court did not disturb the arbitrator's ruling.

The public policy requiring a healthcare employer to prevent abuse and neglect of patients would in most cases trump the public policy in favor of binding arbitration of a labor/management dispute covered by a collective bargaining agreement.

However, the arbitrator did not actually rule that the collective bargaining agreement compelled reinstatement of an employee guilty of abuse or neglect. The arbitrator found the evidence was not conclusive that she, not the day-shift aide, was at fault. **SEU Healthcare v. Outer Drive Partners, 2009 WL 1803237 (E.D. Mich., June 19, 2009).**