

Freedom Of Religion: Court Looks At Nurse's Right To Refuse To Participate In Treatments Based On Moral Convictions.

A nurse who worked in a state-supported university's student health center applied for promotion.

The interviewer was already familiar with the nurse's nursing skills. The interview boiled down to one issue, would she be willing to dispense emergency contraception, that is, the "morning after pill" to the students. The nurse replied she believed life begins at conception, was opposed to abortion, considered emergency contraception a form of abortion and was opposed to its use. The interviewer told her there was another candidate who did not object. The other nurse got the promotion.

The US District Court for the Central District of Illinois reviewed the allegations contained in the nurse's discrimination lawsuit.

Freedom of Religion / Undue Hardship

The court ruled the nurse was deprived of an employment opportunity based on her religious or moral beliefs. However, even when an employee's religious freedom has been curtailed by

an employer's actions, the employer can avoid liability for religious discrimination if the employer can show that accommodating the employee's religious or moral beliefs would impose an undue hardship on the employer. The undue hardship issue most often comes up with employees' requests to be absent for non-traditional religious holy days and observances.

The court said the evidence was lacking how the employer in this case would suffer any hardship if this nurse did not have to dispense emergency contraception.

The nurse's lawsuit also pointed to a Federal statute which prohibits recipients of Federal funding from discriminating against health care personnel who refuse to participate in abortion or sterilization procedures. However, the court ruled that this Federal statute was not enacted to give healthcare personnel the right to sue. **Nead v. Eastern Illinois University, 2006 WL 1582454 (C.D. Ill., June 6, 2006).**