

Freedom Of Speech: Nurse's Statements Not Protected.

A registered nurse employed by the state department of corrections brought up the issue in a staff meeting that other nurses were continuing to dispense inmates' mental health medications under physicians' orders that had expired.

The nurse insisted the other nurses should, instead, schedule their inmate patients to see the prison psychiatrist or at least communicate with the psychiatrist to make sure that the patient should still be on the medication and obtain a current order.

The nurse was written up and eventually was terminated for unrelated incidents of alleged inappropriate interaction with other staff. She sued the department, claiming that she was really terminated in retaliation for voicing her concerns about inmates' expired medication orders.

An employee of a public agency has the right to speak out on matters of public concern and cannot suffer employer retaliation for doing so.

However, matters that are strictly within the scope of the employee's job responsibilities are not matters of public concern.

UNITED STATES DISTRICT COURT
PENNSYLVANIA
July 21, 2010

The US District Court for the Middle District of Pennsylvania ruled that even if that was the reason behind her termination, Freedom of Speech applies only when an individual is speaking out on a matter of public concern. A nurse communicating with coworkers on the job about day-to-day patient-care issues is not speaking out on a matter of public concern and cannot sue for violation of a Constitutional right. Cicchieo v. Beard, __ F. Supp. 2d __, 2010 WL 2891523 (M.D. Pa., July 21, 2010).