

## Licensing: Court Limits Nurses' Rights While Under Investigation.

A registered nurse's former employer had filed a complaint against her with her state board of nursing.

The nurse then experienced problems applying for employment. When prospective employers doing routine background checks contacted the state board to verify her license, they were told her license was "red flagged" as she was under investigation for pending allegations of professional misconduct.

The nurse sued the state board of nursing under the Federal civil rights laws for violation of her Constitutional rights.

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***The state board is not responsible for any adverse inferences which others may draw from the mere fact that a complaint has been filed. Nothing false or defamatory has been publicized by the board.***

UNITED STATES COURT OF APPEALS  
EIGHTH CIRCUIT  
December 1, 2005

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The US Circuit Court of Appeals for the Eighth Circuit ruled the nurse's rights were not violated by the practice of the state board of telling prospective employers that a nurse is under investigation, even while taking more than one year in some cases to obtain the evidence, hear the case and make a ruling.

According to the court, it is not wrong for the board to disclose the existence of a pending investigation so long as no false or unproven allegations against the nurse are communicated to a prospective employer.

***Neal v. Fields*, \_\_\_ F. 3d \_\_\_, 2005 WL 3208664 (8th Cir., December 1, 2005).**