

Public Health Nursing: Court Dismisses Native American Nurse's Job Bias Lawsuit.

A Native American nurse was offered the chance to transfer from her Federal civil service GS-9 clinical nursing position to a public health nursing position, but only at GS-7 because the supervisor said she lacked public health nursing experience. A white nurse was actually hired at level GS-11 for the position.

The Native American nurse sued for race and national-origin discrimination.

Public health services to Native Americans must be of the highest quality.

Native American healthcare professionals by law are to be given preference in filling positions that directly serve the public health needs of Native Americans.

UNITED STATES COURT OF APPEALS,
EIGHTH CIRCUIT, 2000.

The U.S. Circuit Court of Appeals for the Eighth Circuit said it had more than one important social policy to consider. Populations served by public health nurses are entitled to the best possible care, and Native Americans are by law entitled to preference for positions serving the public health needs of Native Americans.

The court resolved the case by saying that clinical nursing experience is not directly transferable to public health nursing, meaning the court saw the white nurse with public health experience on balance as a more suitable candidate for the position. The court ruled there was no discrimination. Dionne v. Shalala, 209 F. 3d 705 (8th Cir., 2000).

Home Health: Elder Removed From Home For Neglect And Abuse, Family's Suit Against Nurse And Others Dismissed.

A home health nurse visited the home where a family had the husband's eighty-eight year-old mother living with them. On the fourth visit the nurse assessed the patient with a urinary tract infection and tried to persuade the son to take her to the hospital. The son refused.

An hour later the nurse phoned the patient's physician. The physician had the sheriff send deputies and an aid car to the home to take the patient to the hospital. The patient was admitted and treated for three days for the urinary tract infection.

The patient died eight days later. The family sued the home health nurse, his agency, the physician, the ambulance company, the EMT's, the sheriff and the deputies for trespass, false imprisonment and intentional infliction of emotional distress.

The California Court of Appeal upheld the Superior Court's decision to dismiss the case as to all defendants.

The home health nurse did not personally participate in the physical removal of the patient from the home. However, the individuals who did so were all absolved from blame, so the nurse would have had legal protection even if he had been directly involved.

The home health nurse did call the physician about the UTI. He also told the physician that the family was refusing to take her to the hospital.

By law the family was neglecting or abusing a vulnerable adult. It is a nurse's absolute legal duty to report neglect and abuse to proper authorities, and by law a nurse cannot be sued for doing this duty.

The nurse did not make his report directly to governmental authorities, but the court gave the nurse the benefit of the doubt for entrusting the actual reporting to the patient's physician, given the importance the law attaches to reporting neglect and abuse. Easton v. Sutter Coast Hospital, 95 Cal. Rptr. 2d 316 (Cal. App., 2000).

A home health nurse is required by law to report neglect or abuse of a vulnerable adult to proper legal authorities.

By the same token a home health nurse has legal immunity from being sued for making a report of neglect or abuse.

In this case the nurse called the elderly woman's physician who started the ball rolling by calling the sheriff who called an aid car and sent deputies to the home to get the woman out and bring her to the hospital.

That was basically the same thing as the nurse calling the sheriff himself, and the nurse is still entitled to immunity from a lawsuit over what he did.

The elder-abuse law should be liberally interpreted to encourage healthcare providers to feel safe when reporting neglect and abuse. The policy of the law is whenever possible to protect a caregiver from a legal liability lawsuit when the caregiver does his or her legal duty.

CALIFORNIA COURT OF APPEAL, 2000.