LEGAL EAGLE EYE NEWSLETTER

For the Nursing Profession

September 2025 Volume 33 Number 9

Consent: Nurses' Explanations Would Have Revealed Wrong Procedure Was Ordered.

After a miscarriage, the patient's gynecologist at the fertility clinic decided to order a diagnostic radiologic procedure.

The procedure revealed an anomaly described by the radiologist as a fallopian polyp or fibroid.

The gynecologist thought the anomaly might account for the patient's difficulty conceiving and carrying to term.

He decided to do an endoscopic procedure to investigate and possibly correct the problem.

The court record for the legal case that was to unfold pointed out that the facility still used paper orders that doctors filled out and signed, that were then routed to a scheduler, who contacted the patient, set the appointment and entered the specification for the procedure in the computer.

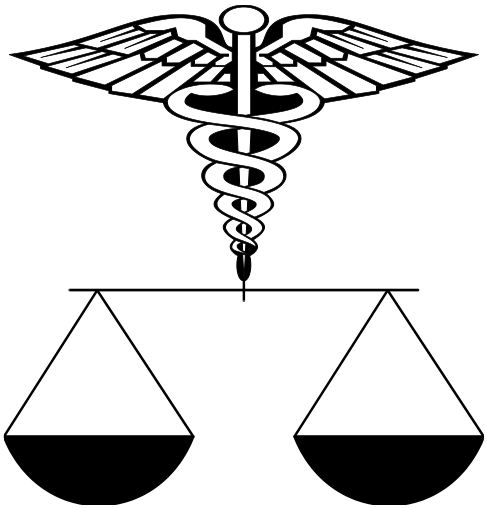
Long story short, the gynecologist ordered a hysterosalpingogram. The scheduler scheduled a hysteroscopy with endometrial ablation.

Nurses Obtained Surgical Consent

Two different nurses on two separate occasions obtained the patient's signatures on surgical consent paperwork for the hysteroscopy and endometrial ablation.

One of the occasions was when the gynecologist's nurse saw the patient at the presurgical appointment in his office.

The other occasion was when the hospital's nurse met the patient at the hospital right before the case was started.



Neither nurse on either occasion explained to the patient that the procedure that was scheduled could make it impossible for her to have children.

If that critical information had been given to the patient, the patient most likely would have spoken up that it was not her intention to prevent pregnancy, alerting everyone that the scheduling was wrong.

COURT OF APPEALS OF MISSISSIPPI
July 29, 2025

Apparently one of the nurses did mention that the inside of the uterus would be targeted to stop the patient's bleeding.

However, the nurse never explained the full import, that the ablation could prevent her from ever becoming pregnant.

At each session, instead of an explanation, each nurse simply gave the patient a thirty-plus page handout to read, which neither nurse ever saw the patient read or show any interest in reading later.

The scheduling error was not detected until months after the wrong procedures were done, when the patient went back to her gynecologist because she had stopped having periods.

The Court of Appeals of Mississippi ruled the patient has strong evidence for a malpractice lawsuit.

She can sue her obstetrician because he did the wrong procedures and because he was the employer of one of the nurses who failed to explain the procedures. She can also sue the hospital as the employer of the other nurse who failed at the same task.

Medical and Nursing Malpractice

As a legal technicality, the Court ruled the hospital can be liable for its nurse's negligence, while at the same time the obstetrician, a non-employee independent practitioner, could also be liable, for his employee's negligence and for his own doing the wrong procedures. **James v. Mem. Hosp., __ So. 3d __, 2025 WL 2114273 (Miss. App., July 29, 2025).**

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Physical, Chemical Restraint Of Mental Health Patient: Court Sees Grounds For Liability.

The thirty year-old male patient was arrested by a deputy sheriff and taken to jail after the family called emergency services to report he was having a mental health crisis.

After two days in the jail the jail staff realized they could not handle his psychotic agitation. An ambulance was called to take him to a hospital emergency room.

After three hours in the emergency room the patient insisted he wanted to leave the hospital, realizing for the first time that he was not actually in jail.

He was physically put down by emergency room staff. After eleven minutes he was still highly agitated, so the physicians ordered a three-part cocktail of IM medications to calm his intense agitation.

The three medications were lorazepam, haloperidol and diphenhydramine.

Use of the medications was prompted by the physicians' determination there were sufficient grounds for an emergency mental health hold and emergency use of chemical restraint.

After five more minutes the patient was checked for the first time. He was pale and limp and was not breathing. CPR was started and an ambulance was called to take him to another hospital.

The patient has been in a persistent vegetative state ever since.

Court Sees Grounds For Liability

The Court of Appeals of Texas accepted the family's medical expert's opinion in its entirety.

Holding a patient down in a prone position can compromise the patient's ability to breathe.

The family's expert faulted the fact the patient was not checked until five minutes after the nurse injected the medication cocktail. The patient's agitation had stopped, as his caregivers wanted, but his breathing had also stopped and he was in the throes of anoxic brain injury.

The expert also took issue with the dosages that were ordered which the expert opined were excessive, even for an otherwise healthy normal sized man. **Hospital v. Wilson, 2025 WL 2413075 (Tex. App., August 21, 2025).**

The family's medical expert focused on the fact the patient was restrained on the floor in a prone position.

According to the expert, prolonged restraint in the prone position has a significant potential to compromise respiration.

Not only was the patient put down in the prone position, but there is also an issue as to the length of time he was held down without any attention to whether he was still breathing.

In fact, the patient apparently went a little more than five minutes without breathing, which led directly to anoxic brain injury and his current irreversible persistent vegetative state.

The expert conceded that the patient's best interests mandated forced medication with IM medications, and that IM medications cannot be administered to a highly agitated patient without full-body physical restraint by caregiving staff.

However, that does not excuse keeping the patient down in a prone position without monitoring his breathing and vital signs, given the potential for respiratory compromise during a period of restraint.

COURT OF APPEALS OF TEXAS
August 21, 2025

Nurse Midwife: State Law Not To Be Challenged As Unconstitutional.

A fully licensed and certified nurse midwife sued the attorney general of the State of Nebraska and other state officials and departments.

She asked the Federal District Court in Nebraska for a ruling that Nebraska's 1984 Certified Nurse Midwifery Practice Act is unconstitutional.

She took issue with the Act's provision that nurse midwives' birthing services can be provided only in authorized medical facilities.

The Act expressly disallows home birthing by nurse midwives. She argued that that prohibition violates her prospective clients' right to due process of law by hindering their right to make their own choices for home birth rather than birth in a hospital.

As a rule the Federal judiciary is not available to parties who wish to go to court to establish or vindicate the constitutional rights of parties other than themselves.

That would open the doors of the Federal courthouses to persons who wish to advance a wide range of abstract questions of wide public significance, which is not the province of the Federal courts.

UNITED STATES COURT OF APPEALS
EIGHTH CIRCUIT
August 22, 2025

The US Court of Appeals for the Eighth Circuit ruled the nurse midwife lacked standing to sue for her prospective patients' constitutional rights.

Allowing the case to go forward would violate a centuries-old doctrine that Federal courts can only rule on matters that qualify as cases or controversies. **Swanson v. Hilgers, __ F. 4th __, 2025 WL 2425192 (8th Cir., August 22, 2025).**

Mental Health: Danger To Others Not Ruled Out In Secure Custody.

The patient was ordered held ninety days for involuntary mental health assessment and treatment, on grounds of danger to others due to a mental illness.

The patient's mental illness is paranoid schizophrenia with command hallucinations telling him to harm certain people.

From the very beginning he was a difficult patient to manage in a low-security milieu, so he was moved to the most secure setting available.

In the secure setting he went the rest of his full ninety days without any aggressive acting out and was fully compliant with his court-ordered medications.

The patient sought a court order releasing him from custody based on a clear record of no aggressive acting out during his ninety day stint in a secure milieu.

The Court of Appeals of Oregon refused to consider the patient's argument based on his short recent history.

Acceptable behavior under high security is no proof of remission.

The Court accepted his caregivers' assessments that he was still a danger to others. **Matter of M.T.H., 2025 WL 2410429 (Ore. App., August 20, 2025).**

LEGAL EAGLE EYE NEWSLETTER
For the Nursing Profession
ISSN 1085-4924

Published monthly, twelve times per year.

Print edition mailed First Class Mail

Electronic edition distributed by email file attachment to our subscribers.

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Patient Suicide Risk: Court Unable To Fault Nurse Practitioner's Care.

To hold the nurse practitioner at fault for the patient's suicide, an expert opinion is required that the measures the widow's lawsuit alleged should have been provided were actually indicated.

The widow's lawsuit alleged the nurse practitioner should have performed a full mental status exam.

The mental status examination should have including a full suicide risk assessment, not just a minimal suicide screening.

The nurse practitioner should have developed a safety plan, it was alleged, and referred the patient to mental health counseling.

Not only is there no proof those measures were indicated, but there is also no conclusive proof that any or all of those measures not pursued would have altered the outcome.

UNITED STATES COURT OF APPEALS
NINTH CIRCUIT
August 14, 2025

The patient committed suicide the afternoon of the same day he was seen by a nurse practitioner in a Veterans Administration health facility.

His widow's lawsuit against the US government pointed to a number of interventions that were not pursued by the nurse practitioner that were alleged, in hindsight, would have prevented the tragic outcome.

The lawsuit alleged the nurse practitioner should have performed a full mental status examination.

A full mental status exam, it was alleged, would have included a full suicide risk assessment, exploring previous attempts, verifying if the patient had thought through a plan and whether the patient had the means and had rehearsed the plan.

A more basic suicide screening would only include simply asking the patient if he wanted to harm himself and taking the patient's response at face value.

It was also alleged the nurse practitioner should have formulated a plan of care and communicated the plan to the patient's other caregivers at the facility.

The nurse practitioner, it was alleged, also should have sent the patient right away to begin mental health counseling.

The ruling of the US Court of Appeals for the Ninth Circuit (Arizona) in favor of the US government points out that legal cause of an untoward outcome is not based on hindsight as to what might have been.

Legal cause hinges on specific indicators before the fact that pointed to a duty to take specific measures which were negligently ignored. **Hager v. US, 2025 WL 2364594 (9th Cir., August 14, 2025).**

Sexual Harassment By Patient: Court Says No To Aide's Claim Of Hostile Work Environment.

A nurses aide accepted employment in a residential center for adults with intellectual and developmental issues who are known to have behavioral problems.

Eventually she quit and sued her former employer for constructive discharge. Constructive discharge means she claimed to have been forced to quit, due to intolerable working conditions.

Those allegedly intolerable working conditions included frequently being assigned to an adult male who acted out verbally and at times tried to grope her. She complained to her supervisors repeatedly, but nothing was done except to schedule her again and again with the same patient she deemed objectionable.

Court Dismisses Lawsuit For Sexually Hostile Work Environment

The Court of Appeals of Texas started with the technical point that a lawsuit for a sexually hostile workplace cannot be based simply on an allegation that one was assigned to a patient who was known to act out sexually toward female caregivers.

The aide was required to allege and prove exactly what the patient did to her, not what he could or might have done to her based on his reputation.

The Court went on to point out that a case for a hostile work environment requires proof that the harassment actually experienced by the victim was so severe and pervasive as to alter the terms and conditions of the victim's employment. That is the accepted definition of a hostile work environment from past court precedents.

The standard definition did not apply here. The aide knew from the start she would be working with intellectually and developmentally challenged persons who would be prone to offensive acting out. That was one of the terms and conditions of her employment.

The courts draw the line between offensive verbal acting out with minimal physical contact, versus overt physical violence at the hands of a patient, which cannot be tolerated and gives a caregiver strong legal grounds to object. **Commission v. Rojas, 2025 WL 2252576 (Tex. App., August 7, 2025).**

The laws against sexual harassment are intended to protect employees from harassment by their employers or by their supervisors who work for their employer.

If the harasser is not a supervisor, the employee must have proof that a supervisor knew about the harassment by a non-employee or a coworker and allowed it to continue.

In some patient-care environments it must be taken into consideration that patients have diminished capacity to appreciate and control their own behavior.

A facility may be unable to reason with a patient who has diminished mental capacity to modify their own behavior within acceptable norms.

It is also relevant what a caregiver would expect accepting employment where patients do not and cannot appreciate the inappropriateness of their behavior.

That means that the terms and conditions of the alleged victim's employment were not altered by the patient's harassment.

The alleged victim knew from the start that she would care for diminished capacity persons prone to acting out.

COURT OF APPEALS OF TEXAS
August 7, 2025

Discrimination: Help For Nurse With Lifting Is Reasonable Accommodation.

A nurse happened to be recovering from a back injury sustained on the job while transferring a patient from a wheelchair to bed, when she was fired for inappropriate behavior toward coworkers.

That behavior included physically confronting and yelling and screaming at coworkers out in the open on the unit and in a closed-door staff meeting.

The fired nurse turned around and sued. She alleged failure to provide reasonable accommodation to her back injury and disability discrimination in her firing.

Reasonable accommodation includes modifications or adjustments to the work environment, or to the manner in which the work is customarily done, that enable an individual with a disability who is qualified for the position to perform the essential functions of the position.

UNITED STATES COURT OF APPEALS
THIRD CIRCUIT
August 18, 2025

The US Court of Appeals for the Third Circuit (Pennsylvania) dismissed the case.

Whether or not a temporary injury on the job actually amounts to a legal disability, the nurse was in fact given reasonable accommodation.

Other nurses were expected and did help her with lifting, or traded their easier patients to her for her more difficult heavy lifting patients. That is reasonable accommodation in the field of direct patient care nursing.

The Court also saw the nurse's inappropriate confrontational behavior as legitimate, non-discriminatory grounds for termination. **Grasty v. Center, 2025 2388208 (3rd Cir., August 18, 2025).**

Discrimination: Comparator Was Not Similar In All Respects.

The US District Court for the District of Columbia has revisited a case we reported last month.

See *Discrimination: Another Promoted Due To Friendship, Not Ethnic Bias* (33)8 Aug. '25 p. 5.

The nurse who sued for discrimination has added a new wrinkle to the case.

The nurse identified a so-called comparator who does not share her gender or ethnic background, whom she claimed was treated more favorably than her by management at her facility.

The comparator she identified is a white man of American ethnicity who is the person who replaced her as director of nursing after her demotion.

A minority claiming discrimination can succeed with a lawsuit by identifying at least one non-minority coworker who was treated more favorably, or disciplined less harshly for the same offense.

The circumstances of this so-called comparator must be very similar in all relevant respects to the alleged victim, or the court will not accept the comparison as the basis for a lawsuit.

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA
August 13, 2025

The US District Court for the District of Columbia did not accept the comparison and turned down the lawsuit again.

The problem is that this comparator, at times relevant to the case, was the alleged victim's subordinate, and then was elevated to the position of her supervisor.

At no time, according to the Court, were his status or his circumstances similar to those of the alleged victim. That made him irrelevant to look at for comparison. **Ayvazian v. Collins, 2025 WL 2336216 (D.D.C., August 13, 2025).**

Discrimination: Nurse Alleged She Was Target Of Investigation Due To Racial Bias.

A minority can succeed with an employment discrimination case by identifying one or more so-called comparators who were treated more favorable or disciplined less harshly for the same offense.

A comparator is a non-minority employee with the same background and credentials, the same job description, the same job location, the same supervisor and the same expectations for their behavior and performance as the minority.

Here there were a number of non-minority nurses who worked in the same ICU as the alleged victim who had the same charge nurse and the same job title and performance expectations as the minority nurse.

Those non-minority nurses were not investigated when the story broke that someone on the unit was tampering with narcotics.

In one very critical respect those other nurses were not similar to the nurse in question, which invalidates them as comparators for a race discrimination case.

None of those other nurses showed telltale signs of impairment from recent use of narcotics like the missing morphine or fentanyl.

UNITED STATES COURT OF APPEALS
SEVENTH CIRCUIT
August 14, 2025

One afternoon it became apparent that someone working in the ICU had recently taken a narcotic out of the Pyxis system improperly.

An ICU nurse reported to the charge nurse that she had checked out insulin ordered for her patient, then went back to the Pyxis and found she was credited with taking out insulin and morphine.

At the same time other nurses were noticing that a particular nursing colleague seemed not to be present mentally. The colleague's eyes were heavy, her speech was slurred and she seemed drowsy.

The nurse was ordered to report to the emergency room for an evaluation. Following the hospital's established policy, after she was deemed impaired, she was taken off duty and sent home in a taxi.

Later that evening, after she was gone, another ICU nurse noticed and reported to the p.m. charge nurse that his credentials had been used by someone else to check out morphine and fentanyl.

He reported explained hat he did check out morphine for a patient who was getting morphine, but he had no idea what was going on with the fentanyl that he supposedly had already obtained.

The next day the blood work came back for the nurse in question, positive for opiates. She was fired.

Court Turns Down
Race Discrimination Case

The US Court of Appeals for the Seventh Circuit (Illinois) turned down the nurse's lawsuit for race discrimination.

The nurse claimed that she was singled out for investigation of narcotics diversion based on her background, as she described it, as a dark-skinned Salvadorian.

Instead, the Court ruled that the hospital's personnel acted properly in their handling of her situation.

Any nurse observed to have signs of impairment was to be sent to the emergency room for an evaluation.

That was established hospital policy the nurse's coworkers had to follow which left no room for exceptions. **Lohmeier v. Hospital, __ F. 4th __, 2025 WL 2348765 (7th Cir., August 14, 2025).**

EMTALA: Nursing Triage Met Appropriate Medical Screening Examination Requirement.

When the individual was booked into the local county jail the admitting assessment by the jail nurse revealed an extremely high blood pressure.

The nurse gave the patient medication, but that did not seem to help. He was transported by ambulance to the emergency room at a local hospital.

At the hospital his care began with nursing triage by the emergency department nurse.

Fast forward, the patient would eventually file a lawsuit claiming violation of his rights under the US Emergency Medical Treatment and Active Labor Act (EMTALA).

As to the hospital, the patient's lawsuit alleged the nurse did not perform triage competently. That contributed to a stroke being misdiagnosed as a more benign hypertensive crisis that the physicians treated with medication and then discharged him.

No EMTALA Violation

The US District Court for the District of New Mexico reviewed the facts from a perspective of showing how the emergency room nurse and the physicians did not violate the EMTALA.

One of the many faults the patient attributed to the nurse was that she did not have the patient's handcuffs removed so he could put his own socks back on.

The patient argued, plausibly in the Court's view, that it is a meaningful test of neurological function whether a patient can put his own socks on. Such a test could have a place in the triage of an emergency patient like this patient.

However, from a legal perspective, the patient had no proof that this hospital had a standing protocol for triage in its emergency department that a triage nurse was to ask the patient to put his own socks on and then watch to see and document if he can.

It may seem trivial, but it is highly illustrative of the main thrust of the EMTALA. The EMTALA requires nondiscrimination in patient emergency care. In an EMTALA case the adequacy of that care is not judged. **Harrison v. County, 2025 WL 2336981 (D.N.M., August 13, 2025).**

In this case the patient came to court with materials from a nursing continuing education course titled "Activating a Stroke Alert: a Neurological Emergency."

However, the patient had no proof that those materials represent the standard emergency medical screening procedures at this hospital for nursing triage to distinguish a stroke from a less critical hypertensive crisis susceptible to management with medication.

Nor was there any explanation how a nursing text would apply to the hospital's emergency physicians.

For purposes of evaluating a patient's claim of a violation of the US Emergency Medical Treatment and Active Labor Act (EMTALA), the court looks at whether the hospital emergency department gave the emergency patient the same medical screening examination as other emergency patients with the same presenting signs and symptoms.

The question in an EMTALA case is whether the hospital followed its own emergency medical screening procedures. The court does not pass judgment on the adequacy of the screening procedures.

UNITED STATES DISTRICT COURT
NEW MEXICO
August 13, 2025

Discharge From The Hospital: Care Still Being Given Outside Building.

The patient was being discharged from the hospital the day after knee replacement surgery on her right leg.

The nurses told the patient to tell her husband to park his sport utility vehicle right in front of the main entrance.

Then several hospital nurses or nursing assistants went out and tried to help her get in the vehicle. They lifted the left leg into the vehicle. That made the patient shift her weight to her right leg, still numb from medication and weak from the surgery.

She fell and was injured. She sued the hospital.

Caregivers' responsibilities did not necessarily end with the patient's exit from the hospital building.

Treatment and care were still being rendered while helping the patient into a family member's vehicle in front of the building.

COURT OF APPEALS OF TEXAS
August 21, 2025

The Court of Appeals of Texas ruled a patient's caregivers' responsibilities as caregivers do not necessarily end with the patient's exit from the building and can extend to assistance rendered to a patient outside the building.

Paradoxically, the Court's legal analysis can actually work in the caregivers' favor in a liability lawsuit.

Helping a recent post-surgery patient into a private vehicle is professional health care treatment, according to the Court.

As such, the patient's caregivers cannot be ruled liable unless the patient has an opinion from a qualified expert witness.

The expert must define the standard of care for the situation and identify a specific breach of the standard of care and explain how the breach directly injured the patient. **Foster v. Hospital, 2025 WL 2413076 (Tex. App., August 21, 2025).**

Labor & Delivery: Nurse Should Have Intervened For Abnormal Sign During Fetal Monitoring.

The New York Supreme Court, Kings County, granted a summary judgment in favor of the defendant hospital on the basis that the obstetric physicians and the certified midwife attending at the birth were not employees of the hospital, but were independent practitioners.

Not so as to the labor and delivery nurse who was tasked with watching the fetal monitoring during the mother's labor.

The nurse was undoubtedly a hospital employee for whose errors and omissions the hospital could be held liable in a civil courtroom.

The gist of the mother's and baby's case, as in many obstetric legal cases, is that a cesarean was delayed to the fetus's detriment in the face of signs that should have prompted an emergency cesarean.

Abnormal Heart Rate

The question was whether the heart rate seen on the monitoring equipment was the heartbeat of the fetus soon to be born, or the mother herself.

From a legal liability standpoint, the nurse could not just assume the electrode was picking up the mother's heartbeat instead of that from the fetus.

If the accelerated heart rate was that of the fetus, that could be an abnormal sign pointing to real-time fetal distress and the need for an emergency cesarean,

If the attending obstetrician and midwife were content to write it off as the mother's heartbeat rather than the fetus's heartbeat, the Court ruled it was the labor and delivery nurse's responsibility to contact the senior physician on duty in the hospital for a more proactive approach.

In the small hours early in the morning the senior physician would be the lead physician in the hospital's own emergency department.

The nurse could have called the physician, explained the situation, and insisted on an independent medical review of the situation.

That could have led to an emergency cesarean that would have saved the day, medically and legally. **Marinelli v. Hospital, 2025 WL 2109102 (N.Y. Super., July 24, 2025).**

The general rule is that it is a hospital's nurse's legal duty to follow the patient's physician's orders.

The hospital is protected from legal liability if the nurses were following the physician's orders.

However, there is an exception to the general rule.

Nurses must do something when the attending physician's orders or acts or omissions are so clearly contradicted for normal medical practice that ordinary prudence by a nurse mandates questioning how the situation is unfolding.

If hospital non-physician staff perceive a clear risk of harm to the patient from the physician's care, that triggers a legal obligation for non-physician staff to act by going up the hospital's chain of command.

The hospital can be liable if its non-physician staff observe a clear violation of accepted medical practice, and fail to take action.

The hospital can defend by proving that the physician's orders or actions that are alleged should have caused concern with non-physician staff in fact did not depart from accepted standards of medical practice.

SUPREME COURT
KINGS COUNTY NEW YORK
July 24, 2025

Deaf Patient, Family Forced To Sign: Family Have No Right To Sue.

Family members who were forced to provide American Sign Language interpretation for a deaf patient sued the hospital for alleged violation of their rights.

Their lawsuit was premised on Federal regulations that prohibit healthcare facilities from forcing family members to interpret for a deaf family member who is a patient.

Facilities can allow family members to interpret for a patient, if the family members freely agree.

They claimed their being forced to interpret unwillingly put them in the role of caregivers, but they were not fully qualified to give care and could face liability over incorrectness or inadequacy in their roles as caregivers.

They also claimed they were denied the ability to fulfill their chosen role as supportive family members.

Antidiscrimination laws and regulations give deaf patients the right not to have their family members forced to interpret for them.

Family members do not possess that right.

UNITED STATES DISTRICT COURT
ARIZONA
August 20, 2025

In a highly technical ruling, the US District Court for the District of Arizona ruled the family members do not have standing to sue the facility over being forced to interpret.

Their being forced to interpret was an act of discrimination against their deaf patient family member, not against themselves, the Court said.

If the facility had discriminated against them, treated them differently than others because they had a deaf family member as a patient in the hospital, they would have standing to sue for their own mistreatment by the facility. **Macaraeg v. Health, 2025 WL 2211041 (D. Arizona, August 20, 2025).**

LEGAL EAGLE EYE NEWSLETTER
For the Nursing Profession

School Nurse: Reasonable Suspicion Justified Strip Searches Of Students.

Four female middle school students underwent strip searches at school. Their parents sued the school district, the board of education, the school principal, the vice principal and the female school nurse who carried out the searches.

School administration had been on the lookout for students drinking a homemade cocktail of codeine-based cough syrup, soda pop and candy to get high at school.

Reports came to the school office that several girls were missing from class and a group was acting strangely on the third floor. They were giggling and appeared unsteady on their feet. One girl was lying on the floor with her legs raised in the air.

They were brought to the office. The female school nurse patted them down, had them empty their pockets and take off their shoes and unzip their sweatshirts to check their waistbands.

The school nurse also took complete vital signs and did neuro status checks.

It was not reported in the record in the US Court of Appeals for the Second Circuit (New York) what if any disciplinary action resulted for the girls.

Reasonable Suspicion Was Present
Probable Cause Was Not Required

The Court ruled expressly that a school official does not need probable cause to search a student's person for contraband. That is based on the special relationship in which the school has the obligation not only to supervise its students' conduct but also to protect the students from harm, even harm they might do to themselves.

Probable cause or a search warrant based on probable cause might be necessary for an adult to be searched by law enforcement. However, that is not relevant in the present legal context.

School officials had reasonable suspicion that the girls had ingested contraband and likely would be found to have contraband on their persons which the school was allowed to and basically was required to confiscate.

Reasonable suspicion was based on the overall concern at the facility for students' use of the contraband cough-syrup concoction, and based on these students' secretive behavior skipping class and displaying recognizable signs of intoxication. **Students v. Binghampton School District, 2025 WL 2372707 (2nd Cir., August 15, 2025).**

Retaliation: Nurse Has No Right To Sue Unless The Complaint Pertained To A Violation Of Rights.

A registered nurse had a good employment record with her employer. She had worked her way up from staff nurse to house supervisor and had no disciplinary episodes in her personnel file.

All went well until a new manager took over in the human resources department. The nurse felt from the start that the new manager did not like her and displayed an attitude of hostility.

An issue arose with the shift scheduling of a particular nurses aide. The nurse in question brought the issue to the human resources manager. The manager responded, not to the nurse herself, but to the nurse's nursing director. The nurse took this as calculated disrespect.

When the nurse in question married a woman, the nurses and others on the unit threw a small party to congratulate her and her wife and wish them well.

An employee has the right to complain that the employee believes the employee's rights are being or were violated.

An employee cannot be the victim of retaliation for exercising the employee's right to complain.

However, to sue for retaliation the complaint must have pertained to a violation of the employee's legal rights, not just a garden variety workplace dispute.

UNITED STATES DISTRICT COURT
PENNSYLVANIA
August 21, 2025

Twelve days later the human resources manager fired the nurse. The reason given was alleged falsification of a chart.

The fired nurse sued the facility. The lawsuit alleged she was fired in retaliation for complaining about the human resources manager's handling of the issue of the aide's scheduling and the perceived disrespect that went with that episode.

The US District Court for the Western District of Pennsylvania dismissed the case.

The nurse's complaint to the human resources manager would be protected from retaliation, only if she complained about a violation of her rights, like her right to be free from discrimination.

A complaint about the handling of a garden variety workplace dispute does not qualify. **Fries v. Hospital, 2025 WL 2420374 (N.D. Penna., August 21, 2025).**