

Bosnian Male Nurse: Discrimination Claim Denied.

A man who had attended an accredited nursing school in the US and passed his nursing boards after emigrating from Bosnia was dismissed from a hospital staff nursing position before his six-month probationary period had expired.

He sued for gender and national-origin discrimination.

A male nurse is a minority for purposes of gender discrimination law.

Like any other alleged victim suing for employment discrimination he still must prove he was fully qualified for the job from which he was dismissed.

UNITED STATES DISTRICT COURT
NEW YORK
August 9, 2006

The US District Court for the Northern District of New York agreed a male nurse from Bosnia is considered a minority for two separate reasons.

However, during his probationary period there were seven documented patient-care errors. Two of them, giving a glass of water to an elderly man with aspiration problems and leaving a biohazard material tray on the floor in a patient's room, were serious threats to patient safety that would justify terminating even a tenured nurse.

Any probationary nurse, under the union contract, could be dismissed abruptly without progressive discipline if he was not meeting expectations.

Based on his performance record the court ruled he was not qualified for his job and thus not eligible to sue for discrimination. **Memisevich v. St. Elizabeth's Medical Center**, __ F. Supp. 2d __, 2006 WL 2277964 (W.D.N.Y., August 9, 2006).