

## Improper Delegation Of Nursing Responsibility: Discrimination Lawsuit Dismissed.

A nurse had to see that a patient in the TB isolation unit received certain oral medications before being transported from the isolation unit to another hospital department for a diagnostic procedure.

The nurse did not have a mask, which was required to enter the isolation unit. Rather than going to get a mask, she asked the patient transporter who was wearing a mask to carry the medications into the isolation unit and give them to the patient.

The transporter hesitated, but, after the nurse insisted, went into the isolation unit and gave the medications while the nurse watched on a closed-circuit monitor. The transporter afterward reported the incident to a supervisor.

The nurse received a very favorable performance review a few days later, but that apparently had already been written before this incident came to light. When it did come to the attention of hospital management, she was terminated.

The nurse sued for age and national origin discrimination. She was fifty-nine years old at the time and is from India.

The US District Court for the Eastern District of Michigan dismissed her case.

### **Violations of Hospital Policy, State Nursing Regulations Were Legitimate Reasons for Termination**

Hospital policy requires nurses, physicians and dentists who administer medications to know what medication is being given, verify that the medication is correct based on the physician's orders, check the expiration date, verify that there are no contraindications, verify the time, dose, route and patient, address patient or family concerns and educate the patient and family as to possible adverse reactions and remain with the patient until the medication has been taken.

State nursing regulations on delegation of nursing responsibilities require the nurse to ascertain that the person to whom a task is delegated has the necessary knowledge and skill so that the task can be carried out safely and completely. A patient transporter does not fit that category. Varughese v. William Beaumont Hosp., 2014 WL 3361897 (E.D. Mich., July 8, 2014).

***State law says that before delegating any nursing duty, a nurse must determine the qualifications of the delegatee and verify that the delegatee has the necessary knowledge and skills for the task to be carried out safely and completely.***

***When asked what she did to verify the patient transporter's qualifications to administer medications safely and completely, the nurse replied, "Anyone can give a couple of pills to a patient."***

***The nurse admitted she was familiar with the hospital's own internal policies for administering medications.***

***One of the nurse's duties is to stay with the patient a minute or two after administering medication to monitor any adverse reaction.***

***The nurse also admitted that to ensure patient safety the nurse must verbally confirm the patient's identity by asking for the patient's name and date of birth and check the name and date of birth from the medication order against the information on the patient's wrist band.***

UNITED STATES DISTRICT COURT  
MICHIGAN  
July 8, 2014

## Whistleblower: Nurse's Termination Was Justified.

A telephone triage nurse got a call from one of the system's facilities asking her to authorize release of a deceased patient's remains to a funeral home.

The nurse looked it up in the binder containing the seniors program's policies and procedures. It stated that a nurse was authorized to release a body.

The nurse believed that was illegal. She informed her supervisor and told the other triage nurses not to follow what she believed was an illegal policy.

Management inquired and learned from the state board of nursing that the policy was, in fact, illegal, and so the policy was rewritten. The triage nurses had already been told not to follow it.

There had been ongoing complaints from families and co-workers about the nurse's rude and inconsiderate attitude. That problem came to a head over a voice-mail from the nurse about a scheduling mix-up which a co-worker took as threatening.

The nurse was terminated.

***The first thing a court looks for as evidence that whistle-blowing led to an employee's firing is proximity in time between the whistle-blowing activity and disciplinary action taken by the employer.***

COURT OF APPEALS OF MINNESOTA  
July 7, 2014

The Court of Appeals of Minnesota agreed the nurse blew the whistle on a policy of her employer which was clearly illegal. However, even a true whistleblower must prove that whistle-blowing was the reason for being terminated.

The problem for her lawsuit was that months went by after she blew the whistle with no adverse action taken by her employer until she left a threatening voice-mail, and that led to her termination. Sal-scheider v. Allina Health, 2014 WL 3024290 (Minn. App., July 7, 2014).