

## Fire Safety: Nursing Homes Must Have Sprinkler Systems By 2013, CMS Says.

Long-term care facilities must install sprinkler systems on or before August 13, 2013 in compliance with the 1999 edition of the National Fire Prevention Association's (NFPA) *Standard for the Installation of Sprinkler Systems* and maintain them in compliance with NFPA's 1998 publication *Standard for the Inspection, Testing and Maintenance of Water-Based Fire Prevention Systems*.

Many states' licensing laws and/or building codes already require sprinkler systems.

We have placed CMS's eighteen-page August 13, 2008 Federal Register announcement on our website at <http://www.nursinglaw.com/firesafety2008.pdf>. The new regulations appear at the very end of the document on Federal Register pages 47091-47092.

FEDERAL REGISTER August 13, 2008  
Pages 47075 – 47092.

## Resident Dies, Is Buried, Next Of Kin Not Notified: Court Says Family Can Sue Nursing Home.

The Court of Appeal of Louisiana ruled that a nursing home was at fault for making no effort to contact the next of kin before going ahead with burial of a long-term resident who died at age ninety-three.

The nursing home administrator knew who the family was; the family lived in the same small town where the nursing home was located.

The family was awarded \$4,813.37 for disinterment and reburial of the resident in a manner more consistent with her own wishes.

The Court of Appeal ordered the nursing home to pay an additional \$5,000 for the family's mental anguish and emotional distress. The family had asked for \$25,000, too much in the appeals judge's opinion while the jury erred awarding only \$2,500. **Rayford v. Willow Ridge, \_\_\_ So. 2d \_\_\_, 2008 WL 3394662 (La. App., August 13, 2008).**

## Gender-Based Shift Assignments: Federal Court Upholds Male CNA's Sex-Discrimination Lawsuit.

A male CNA was hired for the night shift and began working the night shift in a nursing home.

He was also working a second job during the day as a waiter.

His supervisors abruptly re-assigned him to a day position. His shift differential for night work was gone. He was told he had to quit his second job during the day and he could no longer pick up extra hours on p.m. and days-off night shifts.

The nursing home started a new policy, he was told, prohibiting male caregivers from working second and third shifts, fearing a heightened risk of sexual assaults by male caregivers upon female residents during the late hours.

The CNA tried it for a while, then quit and sued for gender discrimination.

***The nursing home adopted a new policy not to allow male caregivers to work p.m. or night shifts.***

***The nursing home's new policy is discriminatory on its face and violates Title VII of the US Civil Right Act.***

***The CNA has a legitimate right to sue for being cast in the role of a potential sexual predator simply on the basis of his male gender.***

UNITED STATES DISTRICT COURT  
OKLAHOMA  
August 1, 2008

The US District Court for the Western District of Oklahoma ruled the CNA had a valid lawsuit.

The nursing home created a hostile work environment by labeling the CNA as a potential sexual predator based on nothing more than his male gender. His response, quitting, was not really quitting; he was forced out by the hostile environment at the facility.

Discrimination caused real consequences, loss of his second job, his night shift differential, his extra hours and ultimately his job as a CNA.

Even though this particular factual scenario is not illegal under the state anti-discrimination law in Oklahoma, it is clearly outlawed by Federal law, the court ruled. **Bair v. Colonial Plaza, 2008 WL 3154686 (W.D. Okla., August 1, 2008).**