

Insubordination: Aide's Firing Upheld By Court.

A CNA was fired from her job for refusing to give a patient a shower as she was instructed by a nurse.

The CNA based her refusal on two reasons, which she communicated to the nurse: the patient was sick with cramps and vomiting; the patient refused a shower.

The CNA sued claiming her termination went against public policies against mistreatment of vulnerable patients.

The aide's refusal to shower the patient based on her disagreement with the nurse over the patient's best interests is common, garden-variety insubordination.

UNITED STATES DISTRICT COURT
NEVADA
March 30, 2011

The US District Court for the District of Nevada dismissed her case.

According to the Court, it is not necessarily wrong to give a patient a shower just because the patient has signs or symptoms of illness.

A certified nursing assistant does not have the education and training comparable to that possessed by a licensed practical nurse or registered nurse to be able to dispute the nurse's judgment as to what is in the best interests of a patient.

A CNA flat-out refusing to follow direction from an LPN or RN on a patient-care issue is common, garden-variety insubordination, the Court said.

In this case the CNA did not have an employment contract or a union collective bargaining agreement.

As a common-law employee-at-will she had no legal protection against being fired on the spot at her supervisor's discretion, regardless of the reason, assuming she was not being fired for refusing to perform an illegal act or an act which went contrary to public policy, which was not the situation in this case. ***Andrews v. HCR Manor Care***, 2011 WL 1303230 (D. Nev., March 30, 2011).