

Freedom Of Speech: Nurse's Internal Memos Are Not Protected.

A registered nurse formerly employed in a hospital emergency room began writing memos about run-ins with nursing co-workers and other hospital personnel.

After she refused direction from her supervisor to do a nursing task that then had to be done by a nursing tech her unit director told her to report to employee assistance for a fitness-for-duty evaluation. The nurse declined and was terminated.

A nurse is protected by the Constitutional guarantee of Freedom of Speech when a nurse speaks out on a subject of public concern.

On the other hand, self-serving lists of personal grievances in memos to management dealing with the ordinary day-to-day job issues of a hospital nurse do not fall under Freedom of Speech.

The nurse has to be speaking out as a citizen, not as an employee doing an employee's job, for Freedom of Speech to come into play.

UNITED STATES COURT OF APPEALS
SEVENTH CIRCUIT
July 16, 2008

The US Court of Appeals for the Seventh Circuit ruled the nurse could not base her lawsuit against the hospital on the First Amendment guarantee of Freedom of Speech. All of the memos the nurse had sent to hospital management pertained only to commonplace day-to-day happenings in the emergency department which were not subjects of public concern. Davis v. Cook County, ___ F. 3d ___, 2008 WL 2746513 (7th Cir., July 16, 2008).