

## Gender-Based Shift Assignments: Male Aide's Bias Lawsuit Thrown Out.

The US District Court for the Southern District of New York ruled it is not unlawful gender discrimination for an inpatient health care facility to give scheduling preference to female over male caregivers for assignments involving intimate personal care of female patients.

Female gender is recognized by the courts as a *bona fide* occupational qualification in caregiving situations only where intimate personal care of female patients is required.

The court thus endorsed the facility's policy for at least one female aide to be scheduled on every shift on a unit caring for female psychiatric patients, even if that policy limited a male caregiver's opportunities to earn overtime.

If intimate personal care of female patients was not required of him he would have a legitimate right to complain about gender discrimination for preferences being shown to female staff. **Babcock v. New York State Office of Mental Health, 2009 WL 1598796 (S.D.N.Y., June 8, 2009).**