

Medicare Fraud Nurse

The parent corporation for the home health agency where the nurse worked was under investigation by Federal authorities for Medicare fraud. Before it was over the corporation would be assessed a substantial fine and the corporate president would be sentenced to prison.

The nurse was hired as a staff nurse and quickly promoted to nursing supervisor. By the time of her firing she had been promoted to nursing administrator in one of the corporation's field offices.

During the government's investigation the nurse was contacted and questioned by government investigators and given the toll-free phone number to report any Medicare fraud she suspected.

Upon being promoted to nursing administrator, she and another nurse took it upon themselves to pull the old files from the office she had taken over and to review those files for possible evidence of Medi-

An employee cannot be fired for a reason that contravenes a recognized public policy.

There is a public policy against healthcare employers committing Medicare fraud and in favor of employees reporting possible fraud in their workplaces.

However, there is no public policy that says nurses must or may comb an employer's old and discarded patient files looking for possible fraud.

SUPERIOR COURT OF PENNSYLVANIA,
1999.

care fraud. Shortly after they phoned the toll-free number to report the results of their impromptu audit, their home health agency terminated them.

The nursing administrator sued for wrongful termination. The Superior Court of Pennsylvania struck down her lawsuit.

It is true that employees are protected from retaliation after they report activities they witness or ongoing practices they know of. There is a strong general public policy and specific statute laws protect employees who report ongoing fraud.

However, a nurse, even a nursing administrator has no legal responsibility or legal right to pull an employer's old records and go through them looking for possible past Medicare fraud. There is no general public policy and no specific statute law protects a nurse from being fired for doing that, the court ruled. **Spierling v. First American Home Health Services, Inc.**, 737 A. 2d 1250 (Pa. Super., 1999).