

## Disability Discrimination Nurse Multiple Sclerosis

The U.S. Circuit Court of Appeals for the Tenth Circuit recently exonerated a nurse's employer from liability for disability discrimination.

The nurse had multiple sclerosis. Following hospitalization for an acute flare-up, the nurse's physician would not certify her fit to return to duty as an air evacuation flight nurse, although the physician said she was fit for duty, could go back to work and she did for a time go back to work in the burn unit, surgical intensive care unit and emergency room. The court noted the flight nurse position had physical demands far above what is expected of general-duty nurses in an acute-care hospital.

With her multiple advanced nursing certifications, the hospital had no problem offering this nurse continued em-

***To be a legal disability a physical impairment must be more or less permanent and it must substantially limit one or more of the person's major life activities.***

***A physical impairment which keeps a nurse out of one particularly demanding nursing position is not a legal disability and does not give the nurse the right to sue her employer for disability discrimination.***

UNITED STATES COURT OF APPEALS,  
TENTH CIRCUIT, 1999.

ployment on many of the hospital's direct patient-care units. The nurse instead chose to make an issue of being denied the flight nurse position, quit, claimed she was forced into quitting and sued for disability discrimination.

The court ruled under the circumstances this nurse's MS was not a legal disability, as most of the time it did not limit her from a major life activity. Being able to do one particular job of the individual's choosing is not a major life activity as it is defined for purposes of disability discrimination law.

The hospital acted properly in denying the nurse the flight nurse position and offering her other positions for which she had the experience and the qualifications, the court ruled. **Sorensen v. University of Utah Hospital**, 194 F.