

## Organ Transplantation: Patient Rejected For Psychiatric Illnesses, Hospital Did Not Commit Disability Discrimination.

Two registered nurses who served on the hospital's organ-transplant selection committee were among the defendants recently named in a disability-discrimination lawsuit filed on behalf of an unsuccessful applicant for a kidney transplant.

### **ADA Does Apply To Decisions Allocating Transplant Organs**

The US District Court for the District of Nebraska did validate the underlying legal premise of the patient's lawsuit.

The Americans With Disability Act says that hospitals, as places of public accommodation, cannot discriminate on the basis of a patient's disability in rendering patient care.

However, in this case the committee's decision was based on legitimate medical reasons and thus was not discriminatory, the court ruled.

### **Legitimate Medical Reasons**

The patient had been institutionalized in a psychiatric developmental center for sixteen

years before he applied for a transplant. His assessment for transplant suitability included a comprehensive psychiatric evaluation which produced a current diagnosis of delusional disorder, persecutory type, on top of a history of paranoid schizophrenia.

The committee was given a medical report saying that transplantation was contraindicated as not in the best interests of this patient or the transplant system. The transplant procedure is complex and intrusive and requires long-standing adherence to immunosuppressive agents and cooperation with a whole gamut of professionals who treat people recovering from transplants.

The court endorsed the committee's decision that it would be highly dubious to expect essential close cooperation and strict medication compliance from a patient with this patient's chronic psychiatric illnesses. McElroy v. Nebraska Medical Center, 2007 WL 4180695 (D. Neb., November 21, 2007).