

Filipino nurses face trumped-up charges in New York

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Ten Filipino nurses are facing trial on criminal charges of endangering patients at a nursing home in New York's Suffolk County. The accusations stem from the nurses' decision to walk off their jobs in April 2006 to protest broken promises and unacceptable working conditions at the Avalon Gardens Rehabilitation and Health Care Center in Smithtown, Long Island. The Suffolk County District Attorney admits that no patients suffered any harm and that such charges have never been brought against nurses in New York State.

The attack on these skilled and relatively higher-paid immigrant workers highlights the precarious conditions and lack of basic rights of millions of immigrants in the US, even those, like these nurses, who come with badly needed skills and full legal status.

The nurses were brought to the US in November 2005, after being recruited by a Filipino agency closely associated with SentosaCare, a large for-profit chain of nursing homes in New York. They were part of a federally sanctioned immigration program largely designed to deal with a critical shortage of nurses in the US. Filipino nurses, highly trained and English speaking, have helped to fill the gap. In the US they have the chance to earn about \$5,000 monthly, compared to only \$200 in the Philippines. According to an analysis of Census Bureau data cited by the *New York Times*, 30 percent of the 215,000 Filipinos in the New York area work as nurses or other health care professionals. Counting their families, these health care workers make up a majority of the immigrant Filipino population.

The nurses say that numerous promises made by the recruiters were broken. They signed individual employment contracts with particular nursing homes, but were sent to other facilities. They had been promised they could start working as registered nurses immediately, but found when they arrived that permit applications had not been processed. Some agreed to work as clerks in the interim, and were paid between \$12 and \$14 an hour, far less than the hourly wage for registered nurses. When they began working as nurses, their paid workweek was unilaterally reduced from 37.5 to

35 hours, and some received \$24 an hour, not the \$34 hourly rate they had been told to expect. Some nurses were not paid night shift differentials or holiday pay.

Complaints about these and other matters were ignored by the nursing homes. As one of the nurses explained, "We were treated like dirt." When the nurses complained to the Philippine Consulate General, they were referred to a lawyer, Felix Vinluan, who said that he would file discrimination charges against the nursing homes, and also that they would be within their rights to resign their positions. Twenty-six nurses and one physical therapist did so on April 6 and 7, 2006. These workers have been dubbed the "Sentosa 27" by their fellow workers and supporters.

After the nurses filed their charge of discrimination and fraud with the Justice Department in Washington, the nursing home owners counterattacked. A civil suit charging the workers with breach of contract was filed, along with a complaint to the State Department of Education.

The nurses also complained to the Philippine authorities, and SentosaCare's recruiters were suspended from recruiting in the Philippines in late May 2006. This suspension was lifted within two weeks, however. As the Long Island newspaper *Newsday* later reported, New York's Democratic Senator Charles Schumer, the head of the Democratic Senatorial Campaign Committee and one of the most powerful figures in the Democratic majority in Congress, wrote an unprecedented four letters in a two-month period on behalf of the nursing homes. Within days after Schumer sent letters to Filipino officials, the suspension was simply reversed without explanation.

Nor did the New York Democratic bigwig stop at that point. On June 27, 2006, according to the report in *Newsday*, a letter from Schumer went directly to the Philippine president, Gloria Macagapal-Arroyo. "I respectfully request that you schedule the meeting with Messrs. Philipson, Landa and Fensterman [the nursing home owners and their lawyer] and to take any actions that you consider appropriate," wrote Schumer. The meeting never took place.

The two owners of SentosaCare, Benjamin Landa and Ben

Philipson, control 25 nursing homes in the state of New York. Landa is a former appointee of the Republican administration of former Governor George Pataki. He has donated more than \$64,000 to both Democratic and Republican politicians. SentosaCare partners and their associates are reported to have given \$750,000 to Democratic and Republican fundraising. Howard Fensterman, the attorney for SentosaCare, has even closer ties to government figures. He is a leading fundraiser for Schumer. Schumer named Fensterman as his Long Island finance chairman in 2001. He is also chairman of the Nassau Industrial Development Agency, which awards millions of dollars each year in government tax breaks to local businesses.

According to the *Newsday* report, the network of nursing homes and contractors represented by Fensterman gave the Democratic Senatorial Campaign Committee \$74,480 in the months after Schumer wrote his letters, in the period leading up to the midterm elections. This same group had given Schumer's own 2004 campaign and the Senatorial Campaign Committee nearly \$124,000 in the period before the dispute with the nurses.

The nursing home bosses did not confine themselves to using their influence with the Senator from New York. They also turned to their friends in county government. District Attorney Thomas Spota held a private meeting with Landa, Philipson and Fensterman. An investigation of the 10 nurses who left their jobs at the Avalon Gardens nursing home followed. The nurses had informed the incoming charge nurse that they were leaving, and they also knew that replacements were available and waiting among Filipino nurses still waiting for assignments. Nevertheless, some 11 months after they resigned, in March 2007, the district attorney announced the criminal charges. "They walked off their jobs, and the critical care patients didn't have the health professionals to attend to their needs," said a spokesman for the DA.

There may be a face-saving aspect to the continuing attempt to victimize the nurses. The State Education Department ruled in September 2006 that the nurses had done nothing to abandon their patients. This was followed by a Department of Health review, which ended with an official finding just 10 days ago that "the shifts were covered and the patients were not placed in jeopardy."

The state findings would seem to leave little grounds for the charges against the nurses, but county officials stubbornly insist that they will fight to keep the Health Department finding out of court when the trial takes place.

The authorities are clearly worried that immigrant workers and others will take inspiration from the struggle of the Sentosa 27 and the 10 Avalon nurses. "A message needs to

be sent," said Fensterman, the Democratic Party fundraiser, "that if nurses can simply walk out on patients with impunity, that is a danger for all Americans, whether in nursing homes or hospitals."

The struggle of the Filipino nurses demonstrates the real nature of the Democratic Party, controlled from top to bottom by the same big business interests as the Republicans. This is far more than a matter of specific campaign contributions or a quid pro quo of any kind. The relationship between Schumer and the nursing home millionaires is a natural part of business and politics under the present system. Schumer brazenly defended his actions by portraying them as part of his efforts to deal with the nationwide nursing crisis. "The letters simply ask for due process for a New York company," said Schumer. "I regard it as my job to help New York companies."

Schumer's job is precisely to "help companies" and not to help workers. He has, of course, not said a word in defense of the nurses, who took a stand for their own rights and for those of their patients as well when they protested and risked their employment opportunities. The nurses have since found other jobs, but most of them required many months of looking, with Google searches of their names leading to stories about the charges they were facing of patient abandonment.

The Filipino nurses are playing a role similar to that of "guest workers" of the sort called for in the immigration legislation that the Bush administration and most Democrats favor but have not yet been able to enact. Those elements within the ruling elite claiming to support immigrants simply want the chance to treat them as the nurses have been treated. These workers are expected to follow orders, be grateful for the chance to earn more than they can back home, and forfeit their basic rights and human dignity without complaint.

While the struggle of these nurses has been front-page news in the Philippines, in the US it has largely been ignored. Stories appeared only in Long Island's *Newsday*. The New York City newspapers completely ignored the story until a report in the January 27 *New York Times*, 10 months after the filing of the charges against them.



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