

# Job Seekers and the Age Issue

By Joyce Routson



## Discrimination Complaints Abound in a Tight Market

*The best thing you can do is make sure your skills are relevant, experts say*

By Joyce Routson, [HEALTHeCAREERS.com](http://HEALTHeCAREERS.com)

**Joyce Townsend** was going into her 16th year at **Lee Memorial Hospital** in Fort Myers, Fla., when in June 2007 she was terminated from her position as practice operations manager in the trauma unit. Along with another, younger worker, she was given severance and told she'd be eligible to come back to another position in six months.

Townsend, 66, subsequently applied for more than a dozen positions but three years later hasn't been rehired by the hospital. The co-worker has. "I was completely traumatized. Nothing in my record indicated I'd ever done anything wrong. I felt like I'd lost my life," she said.

Townsend alleges she was ineligible for rehiring because she had filed an age discrimination complaint with the [U.S. Equal Employment Opportunity Commission \(EEOC\)](http://U.S. Equal Employment Opportunity Commission (EEOC)). According to her attorney, **Jennifer Daley**, the EEOC found reasonable cause she'd been discriminated against and gave her the go-ahead to pursue the case in the courts; she filed a lawsuit in March alleging age discrimination and retaliation.

Many other similar complaints have been filed with the EEOC and the courts. Since 2000, there has been a 42 percent increase in the number of age discrimination filings at the agency. In 2009, there were 22,778 charges.

It is illegal under the **Age Discrimination in Employment Act** for employers to discriminate against people age 40 or older in hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits and other conditions of employment.

Yet there is plenty of evidence, anecdotal and otherwise, that age discrimination in hiring— including the healthcare industry — is real. Some say it has increased as the job market has tightened.

"I think that particularly in this economy it is probably higher than ever before," said **Deborah Russell**, the director of workforce issues for [American Association of Retired Persons \(AARP\)](http://American Association of Retired Persons (AARP)).

AARP members, readers who write into [HEALTHeCAREERS.com](http://HEALTHeCAREERS.com) and many of those receiving unemployment benefits are saying that it's difficult to return to the workplace if you're over 50 and have been out for awhile. Or if they are employed, older workers are

saying they're being asked about their retirement plans.

The situation is particularly acute during the hiring process, when many baby boomers not ready to retire are competing with younger generations for fewer jobs. But it's not overt.

"We hear, 'you know it when you see it,'" says Russell. "They say they can see it with the interviewer's body language. They're being asked questions like, 'how long will you be willing to invest in this kind of job?' or they're told 'this is a fast-paced office, do you think you can keep up?' That's oftentimes code for 'you are overqualified for the job.'"

Because recruiters don't specifically ask about age, it's difficult to know if a candidate is being discriminated against. And if an older worker doesn't even make it to the interview stage, it may be impossible.

"Firms are smart about saying things," says **Joanna Lahey**, a professor at [Texas A&M University](#) who studies age issues. "You may have no idea why you were not hired. And HR managers may not necessarily be aware they are discriminating on age. They may spend about 10 seconds on a resume and may not even be aware of biases."

Lahey says discrimination against older workers is real, especially in the hiring process, and conducted an experiment to prove it. In a paper published by the Center for Retirement Research at [Boston College](#) in 2005, she wrote about sending 4,000 resumes to employers in Boston and St. Petersburg, Fla. The resumes were for job applicants between the ages of 35 and 62, and indicated the high school graduation dates. The jobs applied for were entry-level and included positions such as clerk, licensed practical nurse (LPN), air conditioner repair person and nail tech.

She found a younger worker was more than 40 percent more likely to be called back for an interview than a worker age 50 or older.

"Evidence shows that employers prefer younger job applicants over older applicants," she wrote. "The demand for labor from older workers is smaller than that from younger workers."

Lahey said that more research needs to be done to find out why employers prefer younger workers. But experts say there are some valid and not so valid reasons they do.

### **Staffing Needs**

For instance staffing needs are real. Companies need to know that they have replacements for experienced workers who retire and it may take time to train them to step into the retirees' shoes. Thus, they hire someone younger to learn the ropes over time.

Older workers may not like it when they're asked about their retirement plans, but employers need to plan out how many entry-level, mid-level and experienced staff they

need and budget accordingly. Younger, less experienced workers tend to be paid less than older, more experienced workers. If the more expensive older worker is going to be around 20 more years, it may make sense financially to hire more younger ones.

Other factors driving staffing decisions include the physical requirements of the job, and the fact that technology has eliminated many line staff positions.

"There are people who expect to have a job for life and retire from a clerical function in a department," said **Maureen Wiley**, senior vice president at **Stern & Associates**, a firm that places healthcare information managers and nursing executives. But with the advent of electronic medical records, for example, "managers may be on the lookout for easy attrition and look for ways to make sure their staffing numbers are relevant."

But **Jo Ann Lindom**, who filed an age discrimination complaint with the EEOC against **Fairview Hospital** in Edina, Minn., two years ago, doesn't buy it. Lindom, 55, was one of 26 nurses fired from the hospital when it moved to using more RNs than LPNs. Most of the LPNs were between 45 and 63.

In a story in the *St. Paul Pioneer Press*, a hospital spokesman was quoted as saying the decision was made to ensure patients "get the skills level of an RN."

Unfortunately, the EEOC decided the case wasn't age discrimination, Lindom said, and an attorney the group hired felt it shouldn't be pursued. Lindom has been able to find another job, but others still haven't found work. She is adamant that the staffing decision was wrong.

"LPNs can be trained to do anything under the supervision of RNs. They complain about spending money, but RNs are three to four dollars an hour more than LPNs," she said. "I would do it over again, but hope for a different outcome."

Daley, the attorney in the Fort Myers case, says staffing needs and the economy are just excuses.

"We understand economic factors are a concern. But if you were talking about an issue such as race, the answer would be easy. Age shouldn't be treated any differently," she said. "Based on my practice I think the minorities are being adversely impacted when it comes to layoffs."

Joyce Townsend's case is in the discovery stage and it is too early to tell whether a settlement can be reached.

In a story in the *Naples News*, a Lee Memorial spokeswoman said the hospital, "provides equal opportunity and equitable treatment to all employees and job applicants, and prohibits retaliation of any kind."

## **Advice**

There are steps the older job seeker can take to find a job, although it remains challenging. The first step, says Russell, is to "be aware of this reality. It is a very difficult time and older individuals are competing with all age demographics."

She advises "playing up to your strengths – what you've accomplished. Be outcome-driven. Talk about how you've had access to training, technology. If you have a smart phone, put it on the desk. Anything to dispel the perception of the interviewer."

Be relevant, said Wiley, the recruiter. "Older workers need to keep up their skills and continue to evolve in the workplace. Job security doesn't exist any more and competition has increased in the market, so if a candidate is relevant to their industry, kept their skills up, and is dependable and has commitment, common sense and experience, an attentive hiring manager will appreciate that."

She also advises candidates to think like the people in the workplace who are valuable employees. "They've kept up their skills and are sharp, healthy and incredibly dependable. You have to know what your value is; if fear is coloring how you perceive yourself, then you've lost it right away."

Also, think about possibly stepping into a lesser role if you're re-entering the workplace, or relocating if possible. "Make good choices for yourself," she said.

#### **About Author**

Joyce Routson is a journalist on the *HEALTHeCAREER's* News Beat Team and who's written about healthcare, labor and recruiting for a number of publications including the *Contra Costa Times*, *NurseWeek* and *Staffing Industry Report*. A resident of the San Francisco Bay Area, she also works as an editor at Industry Intelligence Inc.