
GUIDELINES FOR THE REGISTERED NURSE

Giving, Accepting, or Rejecting an Assignment



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FOREWARD

Registered Nurses frequently face practice dilemmas where work assignments and / or workload requirements place the nurse in a difficult situation. The Nurse Practice Act holds each individual nurse accountable for the quality of nursing care provided and sets forth minimum standards of practice to which nurses are expected to utilize and incorporate into their daily practice.

WSNA has developed a number of tools for helping nurses cope with these unusual and troubling staffing situations. This booklet was intended for that purpose. It is modeled after documents produced by the Florida and North Carolina State Nurses Associations. The American Nurses Association has encouraged state nurses associations to develop guidelines specific to the needs of each state. We believe this booklet has accomplished that charge.

Abbreviations Used in These Guidelines

ANA..... American Nurses Association

RCW..... Revised Code of Washington

WAC..... Washington Administrative Code

RN..... Registered Nurse

WSNA Washington State Nurses Association

SCENARIOS

Nurses are concerned about current legal, social and economic conditions that have the potential to lead to unsafe assignments. These conditions create serious ethical dilemmas and could lead to situations that endanger patients' safety, and render the nurse at all levels of the agency legally liable. Some of these situations are described in the following scenarios.

You are asked to care for an unfamiliar patient population or to go to a unit or perform a procedure with which you feel unqualified. *What do you do?*

You are asked to work an additional shift. Your immediate response is that you don't want to work another shift. *What do you do?*

You recognize your fatigue and its potential patient harm, yet you are required to work overtime. *What do you do?*

Due to a decrease in the average daily census there has been a reduction in budgeted nursing positions. The census rises and there are no additional qualified staff available. You are asked to assume responsibility for an increased patient load. *What do you do?*

Underlying all these situations are the ethical dilemmas and accountability of individual nurses. All members of the health care team, from staff nurses to administrator, share a joint responsibility to ensure that safe, effective and appropriate patient care is provided.

These situations are familiar and emphasize the rights and responsibilities of the registered nurse to make informed decisions.

The nurse's decision regarding giving, accepting or rejecting assignments is based on his / her professional and personal value system.

The nurse assumes individual accountability for his / her nursing judgment and actions.

Is any nurse better than no nurse?

If I am floated to another unit, it is presumed that the patients will receive better care than if no one went. *But if I go and make a mistake, who is responsible?*

My staff is so tired and frustrated and so am I.

How do I help them deliver safe, effective patient care and yet meet the budget?

Who is going to be shortchanged tonight?

Two of the patients assigned to me are critically ill and unstable.

The patients in the adjoining beds are equally unstable and are assigned to an inexperienced nurse. She needs my help, her patients need my help, my patients need my help. *What do I do?*

Issues central to potential dilemmas

- The right of the patient to receive safe, professional nursing care at an acceptable level of quality.
- The responsibility for and appropriate utilization and distribution of nursing care services when nursing becomes a scarce resource.
- The responsibility for providing a practice environment that assures adequate and cost-effective nursing resources.
- The responsibility of the nurse to the nursing profession's stated "non-negotiable ethical standards" (ANA Code of Ethics for Nurses).

Nursing staff, management, and administration may differ in their interpretation of the ethical principles and the legalities within the Law Relating to Nursing Care and Regulations of Health Professions (also known as the Nurse Practice Act). Differences may create conflict. These guidelines endeavor to facilitate strategies for problem solving and support both practitioners and administrators as they operationalize practice within the complex environment of the health care system.

LEGAL & PROFESSIONAL ISSUES

There are considerations in law, regulation and precedent that nurses should be aware of when deciding upon a course of action regarding a patient care assignment. These considerations can be divided into professional practice issues, and employment and contract issues.

Professional Practice Issues

The Nurse Practice Act of Washington (WAC 246-840-700) states that “the nurse shall be responsible for the quality of nursing care given to clients.” This language charges the individual nurse with responsibility for the quality of care delivered once the nurse has accepted an assignment. In the Uniform Disciplinary Act (18.130 RCW), conduct that may be deemed unprofessional for any health care professional includes “incompetence, negligence or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed” RCW 18.130.180(4), and “failure to adequately supervise auxiliary staff to the extent that the consumers’ health or safety is at risk.” (RCW 18.130.180(14)). The intent of these laws is to establish expectations toward a minimum standard of care to be delivered once a licensee has accepted responsibility for a particular patient assignment.

These minimum expectations are further elucidated in the Standard of Nursing Conduct or Practice (WAC 246-846-700). Language in the introductory portion of the rule states that the nurse’s responsibility for the quality of nursing care given to clients “cannot be avoided by accepting the orders or directions of another person.” The rule goes on to outline expectations about the minimum behaviors necessary for safe nursing practice.

Subsequent language in the next rule (WAC 246-846-710) is even more instructive, as it spells out exactly what constitutes a violation of standards of nursing conduct or practice. Included in this rule are: improper delegation of nursing care functions or responsibilities (2)(a); “failing to supervise those to whom nursing activities have been delegated” (2)(b); and “performing or attempting to perform nursing techniques and / or procedures for which the nurse lacks the appropriate knowledge, experience, and education and / or failing to obtain instruction, supervision and / or consultation for client safety” (3)(a). Section (4)(b) of this same WAC deems it a violation to practice “nursing while impaired by any mental, physical and / or emotional condition to the extent that the person may be unable to practice with reasonable skill and safety.”

The above-cited rules and other portions of the Nurse Practice Act indicate that the expectation is placed upon nursing staff to deliver no less than minimum-standard nursing care once an assignment has been accepted; to be prepared mentally, physically and educationally to deliver safe care; to delegate care appropriately; and to adequately supervise those to whom care has been delegated. Failure to practice within these constraints may result in action being taken against an individual nurse’s license by the Washington State Nursing Care Quality Assurance Commission (NCQAC).

Another pertinent section of the rule is WAC 246-840-710(4)(c), which defines a violation of the standards as “willfully abandoning clients by leaving a nursing assignment without transferring responsibilities to appropriate personnel or care giver when continued nursing care is required by the condition of the client.” Nurses occasionally report that an immediate supervisor will cite this rule to pressure them into accepting an assignment the nurse feels is unreasonable or unsafe. However, NCQAC’s policy states that abandonment occurs only when the nurse willfully leaves an assignment he or she has accepted without transferring responsibility to appropriate personnel (see Appendix V).

Liability for Nurses

Beyond considerations of action against one’s license, a nurse must also weigh the risks of harm which may befall patients in his / her care if the nurse accepts an unreasonable assignment. Recent court decisions have held nurses to strict professional standards of knowledge and performance. Thus, if the “average prudent nurse” would not have accepted a particular assignment, the nurse who does decide to accept it will be judged by that professional standard.

For example, if the nurse chooses to provide care to patients in an area with which she/he is not familiar, and the nurse violates the standard of care expected of a nurse in that area, then the nurse and the employer may be held liable for the harm that results.

Employment & Contract Issues

Nurses who refuse to obey an employer who assigns them to a particular work area risk disciplinary action from their employer. In situations where a nurse judges that he/she is unable to accept an assignment without serious risk to patient safety, the nurse has the right — and the obligation — to inform the employer that he/she does not feel comfortable and able to provide safe care. The Washington State Nurses Association has developed a form for informing employers about unsafe assignments. This form is the “Assignment Despite Objection” (ADO) form (see Appendix III).

Filling out and delivering a copy of this form to the immediate supervisor does not automatically guarantee protection from any action taken against the nurse’s license nor will it always protect the nurse from a malpractice suit in the event a patient is injured as a result of the care the nurse is able or unable to deliver. It can, however, specifically document a situation and can be a very effective tool for the Practice Committee or Conference Committee to bring an issue to management’s attention. Documentation on the

ADO form can also indicate a good faith effort on the part of the nurse to call attention to problems placing the patient and employer in serious jeopardy while not raising the issue of insubordination. It also renders the employer responsible in addition to the nurse. Employers may have violated their regulatory duty to provide sufficient, qualified personnel to properly staff each department of the facility in accordance with WAC 246 – 318-040.

Use of the ADO process should be viewed as part of a “Quality Improvement Program”. The information gathered can be used in very powerful and effective ways. Local Unit officers, as well as nurse managers, can use the information documented on the ADO forms to provide evidence that a problem on a particular unit exists or that it is in fact house-wide. Using the ADO form allows Local Unit officers or nurses on the unit to assume responsibility for gathering information directly from the nurses affected. Approaching a meeting with specific details (dates, times, specific events) is much more powerful, “business like”, and effective than anecdotal unsubstantiated allegations. It also allows management to more effectively investigate an issue.

At these times nurses walk a fine line between losing their jobs because of insubordination or losing their licenses or risking malpractice suits because they followed their employer’s instructions. For nurses who are covered under a collective bargaining agreement negotiated by the Washington State Nurses Association, there is often language in the contract which deals with professional concerns such as staffing and patient assignment. There is usually language calling for the formation of a Nursing Practice Committee where these issues can be addressed and solutions can be found in a spirit of cooperation and mutual respect.

It has been suggested¹ that professional rights provisions be negotiated into collective bargaining agreements. The professional rights provision recognizes that nurses must adhere to professional standards of practice as well as to the employer’s nursing policies. Through the professional rights provision, the employer promises it will not structure nursing assignments so as to compromise a nurse’s professional standards of practice. The professional rights provision will incorporate into the nurse-hospital relationship the recognition that a nurse can and must make professional judgments regarding assignments and staffing, thus offering additional protection to the nurse from charges of insubordination.

It has also been suggested² that the professional rights provisions of an employment contract can be strengthened by including an indemnity clause to protect the nurse whose liability is founded on an unreasonable assignment. An indemnity clause will insure that a nurse who accepts unreasonable assignments will not be held liable concurrently for the employer’s failure to provide adequate staff.

In Washington State, WAC 296-126-090 provides options to employees who feel the number of hours they are required to work or other matters relating to overtime employment are detrimental to their health, safety or welfare. Under this rule, an employee may request the Department of Labor and Industries to make an investigation and to issue findings and conclusions. If the circumstances are found to be detrimental to the employee, the industrial welfare committee may adopt additional or revised employment standards.

1 Edith Kelly Politis, “Nurses’ Legal Dilemma: When Hospital Staffing Compromises Professional Standards”, University of San Francisco Law Review, Vol 18 (Fall, 1983), 140-141.

2 Ibid.

GUIDELINES FOR DECISION MAKING

The complexity of the delivery of nursing care is such that only professional nurses with appropriate education and experience can provide nursing care. Upon employment with a health care facility, the nurse enters into an agreement with that facility to provide nursing services in a collaborative practice environment.

The Nurse's Responsibility

- Provide competent nursing care to the patient.
- Communicate concerns regarding needed resources and / or the work environment that may potentially impede the delivery of quality patient care. This includes utilizing the chain of command as well as use of available documentation tools such as incident reports, QA memos, and ADO forms to inform healthcare leaders of issues of concern.
- Exercise informed judgment and use individual competence and qualifications as criteria in giving, accepting or rejecting an assignment. Nurses have individual accountability for the care of each patient.
- Clarify assignments, assess personal capabilities, jointly identify options for patient care assignments when he/she does not feel personally competent or adequately prepared to carry out a specific function. The nurse may be held legally responsible for judgments exercised and actions taken in the course of nursing practice (ANA code). The nurse has the right to refuse an assignment that he/she does not feel prepared to assume.

Management's Responsibility

- Ensure competent nursing care is provided to the patient.
- Evaluate the nurse's ability to provide specialized patient care and provide appropriate orientation and training to a new or changing clinical setting and / or patient population. Nursing competencies must be discussed at the time of employment and updated as competencies change, clearly identifying clinical areas in which the nurse is competent to serve.
- Provide and organize nursing resources to ensure that patients receive safe, effective and appropriate nursing care.
- Communicate, in written standards, the process to make consistent and appropriate assignments and reassignment decisions.
- Collaborate with staff to clarify assignments, assess personal capabilities and jointly identify options for patient care assignments when the nurse does not feel personally competent, adequately prepared, or appropriately resourced to carry out a specific function.
- Recognize that working frequent long hours and adjusting to shift changes may interfere with a nurse's physical and mental health and impair performance of clinical activities and judgments.
- Recognize that a nurse floated to a charge position requires a substantial amount of clinical experience and a high level of clinical judgment and skill in that area as he/she is responsible for providing consultation and direction to other nursing staff.
- Take appropriate disciplinary action according to facility standards.

Administration's / Healthcare Facility's Responsibility

- Ensure the presence and ongoing enhancement of a care environment conducive to the delivery of quality patient care.
- Plan and budget for appropriate resources based on patient requirements and priorities for care, recognizing individual patient safety takes precedence over facility needs and priorities.
- Ensure competent nursing care is provided to the patient.
- Provide education to staff and management in the decision-making process regarding patient care assignments and reassignments, including patient placement and allocation of resources. Recognize staffing decisions must be made by nurses with appropriate education and experience.
- Provide a clearly defined mechanism for immediate internal review of proposed assignments. This should include participation of staff involved, and the documentation and review of incidents in which the appropriateness of assignment is in question.

PROCESS FOR IDENTIFYING ISSUES AND DECISION-MAKING

When faced with a decision to accept or reject an assignment, the interests of the nurse and the agency are best served if both undertake a process of identifying the issues and exploring all possible options. This is a suggested framework for decision-making:

- ① **Clarify** what is being asked of the nurse.
- ② **Assess** the capabilities of the nurse.
- ③ **Identify** all possible options for meeting patient needs.
- ④ **Make a decision**, communicate the decision to the nurse's immediate supervisor, and if appropriate, document the decision-making processes.

APPLICATION OF GUIDELINES FOR DECISION-MAKING

The pages which follow contain some examples of how a nurse may apply the guidelines for decision-making as outlined in previous pages. The professional nurse should keep in mind that the nurse manager and the staff nurse share the responsibility for, and commitment to, the delivery of safe, competent nursing care to patients in the clinical setting. Maintaining a proactive rather than reactive stance toward decision making, and perceiving the roles of nurse manager and staff nurse as complementary rather than antagonistic, is more likely to result in a solution that addresses the concerns of both the staff nurse and the nurse manager.

Example Issue: Floating – Competence

Scenario: The evening supervisor asks Tom, a new graduate who has just completed his orientation to an adolescent pediatric unit, to cover the patient assignment of an infant unit nurse who needs to transport a stable infant to its home hospital.

CLARIFY

What is the nurse being asked to do?

- How many patients is the nurse being asked to care for?
- Do these patients require specialty knowledge and skills in order to deliver safe nursing care?
- Will the nurse have immediate access to qualified and experienced RNs?
- What procedures and / or medications will the nurse be expected to administer?
- How complex are these procedures/medications?
- What kind of orientation would be necessary for the nurse to function on the infant unit temporarily?

ASSESS

What are the capabilities of the nurse (Tom)?

- Does the nurse (Tom) have the knowledge and skills to safely meet the expectations outlined?
- Does Tom have experience with infants or with patients with similar needs as those she/he is being asked to care for?
- Has the nurse been oriented to this or a similar unit?
- Would the perceived discrepancies between Tom's abilities and the needs of the patient lead to an unsafe patient care situation?

IDENTIFY OPTIONS

- 1 If Tom believes he can provide safe patient care, he should accept the assignment.
- 2 If Tom believes the discrepancy between his abilities and the needs of the patient could lead to potentially unsafe patient care, further discussion is needed and other options developed.
 - Is it more feasible for Tom to transport the infant to the home hospital?
 - Can another nurse on the infant unit take on the assignment and Tom assist?
 - Is another nurse from the adolescent unit better able to float to the infant unit, with the stipulation that Tom orient to the infant unit in case the situation arises again in the future?
 - Is there a nurse from another unit who can float to the infant unit, with Tom assuming care of that nurse's patients?

MAKE A DECISION

If none of the options developed are viable or acceptable to Tom, he must either:

- 1 Accept the assignment documenting carefully on the ADO form his concern (if any) related to patient safety and the process he used to inform the agency (manager) of his/her concerns. Keep a personal copy of this documentation, provide a copy to the immediate supervisor, and send a copy to the Local Unit Officer (where a collective bargaining agreement exists). Courtesy suggests a copy also be sent to the area manager. Once he reached this decision it is unwise to discuss the situation or his feelings with other staff and / or patients. Now he is legally accountable for these patients. From this point, withdrawal from the agreed upon assignment may constitute abandonment unless the care has been officially transferred to an appropriate caregiver.

Or...

- 2 Refuse the assignment and accept the possibility of disciplinary action. Document carefully his concern for patient safety and the process he used to inform the manager of his concerns. Keep a personal copy of this documentation, provide a copy to the immediate supervisor, and send a copy to the Local Unit Officer (where a collective bargaining agreement exists). Courtesy suggests that a copy also be sent to the area manager.

Example Issue: Unfamiliar Drug

Scenario: Sue is asked to administer drug XYZ, an experimental chemotherapeutic, to one of her patients. Sue has no knowledge or experience with drug XYZ.

CLARIFY

What is Sue is being asked to do?

- Will Sue administer the drug, or assist another health care provider who has knowledge of the drug?
- Is the research protocol available to her, and does she have the time available to read and understand it as it pertains to the drug?
- Does the drug have potentially serious side effects she is qualified to monitor?
- What other information is necessary for her to safely administer the drug?

ASSESS

What are the capabilities of the nurse (Sue)?

- Is she capable of familiarizing herself with the drug and relevant policies and procedures in the time available?
- Does she have experience with or knowledge of similar drugs?
- Do the demands of her current patient assignment preclude the safe administration of the drug?

IDENTIFY OPTIONS

- 1 If she believes she can administer the drug safely, she should do so.
- 2 If she believes the discrepancy between her abilities and the needs of the patient could lead to potentially unsafe patient care, further discussion is needed and other options developed.
 - Is another nurse available who is better able to safely administer the drug and care for the patient?
 - Can she consult with a nurse on another unit or in another clinical setting who can provide her with information?
 - Can her patient load be decreased so that she can focus better on the patient receiving the drug?

MAKE A DECISION

If none of the options developed are viable or acceptable to Sue, she must either:

- 1 Accept the assignment, administer the drug documenting carefully on the ADO form her concerns (if any) related to nurse and patient safety and the process she used to inform the agency manager of her concerns. Keep personal copy of this documentation, provide a copy to the immediate supervisor, and send a copy to the Local Unit Officer (where a collective bargaining agreement exists). Courtesy suggests that she also send a copy to the area manager. Once she has reached this decision, it is unwise to discuss the situation or her feelings with other staff and / or patients. Now she is legally accountable for this patient.

Or...

- 2 Refuse to administer the drug, documenting carefully her concerns related to nurse and patient safety and the process she used to inform the manager of her concerns. Keep a personal copy of this documentation, provide a copy to the immediate supervisor, and send a copy to the Local Unit Officer (where a collective bargaining agreement exists). Courtesy suggests that she also send a copy to the area manager. Once she has reached this decision, it is unwise to discuss the situation or her feelings with other staff and / or patients.

In both of the above scenarios, the nurses' actions are guided by the principles of the American Nurses Association's "Code of Ethics for Nurses (2001)," specifically Provision 4 which states, "The nurse is responsible and accountable for individual nursing practice and determines the appropriate delegation of tasks consistent with the nurse's obligation to provide optimum patient care." This is also reflected in the Washington State Nurse Practice Act, which states, "The nurse shall be responsible and accountable for practice based on and limited to the scope of her/his education, demonstrated competence, and nursing experience."

The clinical setting, as represented by the nurse manager, has the prerogative for meeting its obligations to its patients, to require that staff nurses be oriented to units to which they may be floated, and that nurses participate in educational programs that prepare them to administer unfamiliar medications and procedures. Both nurse managers and staff nurses can work together on Nurse Practice Committees to anticipate future needs and prepare to meet those needs.

Example Issue: Additional Shift – Overtime

Scenario: Nurse P is told by Nurse B, the charge nurse, that she must work another shift because of multiple sick calls for the upcoming shift. Nurse P is reluctant to work an additional shift because of her own fatigue level.

CLARIFY

What is Nurse P being asked to do?

- Would she provide care for the same patients she is caring for on her current shift?
- Is she being asked to care for patients she does not feel competent to care for? (If yes, refer to previous discussions.)
- Is this a chronic request due to poor scheduling, inadequate staffing, or chronic absenteeism?

ASSESS

What are the capabilities of the nurse (Nurse P)?

- Is she really tired, or does she just not feel like working?
- Is her fatigue level such that her care may be unsafe?
- Does she have non-work responsibilities that preclude her working another shift?

IDENTIFY OPTIONS

- 1 If she perceives she can provide safe patient care and is willing to work the additional shift, she should accept the assignment.
- 2 If she is unwilling to accept the assignment, she should inform Nurse B of her reasons and discuss other options.
 - The willingness of another nurse to accept the assignment.
 - Call in a qualified off-duty nurse.
 - Offer to work half the shift with another nurse called in to work the other half.
- 3 If she does not accept the assignment and the manager continues to attempt to persuade her, it may be appropriate to consult the next level of management, such as the house supervisor or the nurse executive.

In further dialogue she should continue to weigh her reasons for refusal versus the agency's need for an RN. If she has a strong alternate commitment such as to child care, or if she seriously feels her fatigue will interfere with safe patient care, she should restate her reasons for refusal.

At this point it is important for her to be aware of the legal rights of the agency. Even though a nurse may have legitimate concern for patient safety and her own legal accountability, or legitimate concern for the safety of her children or other commitments, the agency may initiate action, including termination, if she refuses to accept an assignment. Therefore, it is important to continue to

explore options in a positive manner, recognizing both she and the agency have a responsibility for safe patient care. (See Appendix VI)

MAKE A DECISION

If none of the options developed are viable or acceptable to Nurse P, she must either:

- 1 Accept the assignment, documenting carefully on the ADO form her concern and the process she used to inform the agency (manager) of her concerns. Keep personal copy of this documentation, provide a copy to the immediate supervisor, and send a copy to the Local Unit Officer (where a collective bargaining agreement exists). Courtesy suggests that she also send a copy to the area manager. Once she has reached this decision, it is unwise for the nurse to discuss the situation or her feelings with other staff and / or patients. A nurse is now legally accountable for this patient. From this point, withdrawal from the agreed upon assignment may constitute abandonment.

Or...

- 2 Refuse the assignment, being prepared for disciplinary action. Document carefully on the ADO form her concern and the process she used to inform the agency (manager) of her concerns. Keep personal copy of this documentation, provide a copy to the immediate supervisor, and send a copy to the Local Unit Officer (where a collective bargaining agreement exists). Courtesy suggests that she also send a copy to the area manager. Once she has reached this decision, it is unwise for the nurse to discuss the situation or her feelings with other staff and / or patients.

As discussed in the scenarios related to floating and competence, proactive nurse managers and staff nurses will attempt to collaborate in developing options so that requests for nursing staff to work additional shifts will be minimized. A legal principle that may guide nurses in decision-making relating to working overtime is that of abandonment. The reader is referred to the discussion regarding this principle in the section titled "Legal and Professional Issues."

Example Issue: Providing Care to Specific Patient Populations

Scenario: Nurse R, a home care nurse, is assigned to visit Mr. Smith and do daily dressing changes. Mr. Smith lives in a neighborhood in which numerous drug-related crimes have taken place. He informs Nurse R that he has purchased a gun and keeps it in the bedside table.

Scenario: Nurse T is a hospice nurse assigned to care for Mrs. Jones. During his initial assessment, Nurse T is told that Mrs. Jones and her husband are proponents of “rational suicide” and are making plans for the assisted death of Mrs. Jones.

Each of the above scenarios may present value, ethical and moral conflicts for the nurse. The Washington Nurse Practice Act states, “The nurse shall conduct nursing practice without discrimination... The nurse shall respect the client’s right to privacy by protecting confidential information.” The American Nurses Association’s Code of Ethics for Nurses (2001) states, “The nurse in all professional relationships, practices with compassion and respect for the inherent dignity, worth and uniqueness of every individual, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems.” On the other hand, the nurse is responsible for maintaining his / her personal safety and, as a citizen, is bound to observe the law.

In applying the decision-making guidelines, the nurse **clarifies** the issues in the situation, **assesses** him / herself, and **identifies options**. The nurse examines his/her reluctance to care for any specific patient population and may pose the following questions:

- Is the reluctance due to a specific religious or moral tenet? What would violation of this tenet mean to the nurse personally?
- If the nurse’s reluctance is health centered, does this reluctance have a scientific basis?
- If the discrepancy between the nurse’s belief system or concern for personal safety, and the patient’s need for nursing care is significant and the nurse believes that he / she is unable to provide competent and committed care, the nurse would:

Inform the employer of the reluctance and provide strong rationale and documentation to support the necessity for refusal of the assignment. Recognition by the organization of an individual nurse’s right to refuse to care for a specific patient population sets a major personnel precedent and will not be made lightly.

A health care agency has a responsibility to provide care for all patients accepted into the organization. Due to this responsibility the nurse cannot be guaranteed that he/she will never be asked to provide care for the patient in question.

If the employer chooses to honor the nurse’s reluctance to care for a specific patient population, he/she must expect to be assigned to an area in which these patients are least likely to be found.

Remember, even if this alternative is chosen and the nurse’s reluctance honored, the occasion may arise in which the situation requires him/her to care for patients in this population.

If the nurse’s reluctance is not honored by the employer, the nurse’s

responsibility is to agree to meet the employer’s expectations or to resign.

Consider the occasion where the nurse’s reluctance has been honored, but he / she is now faced with a proposed assignment to a patient in this population. The options used in previous scenarios may be utilized such as switching assignments with another nurse.

THE BOTTOM LINE

When faced with a situation where you are concerned about an assignment, there are four options:

- **Accept the assignment, documenting your professional concern for patient safety and the process you used to inform the facility (manager) of your concerns.** Keep a personal copy of this documentation, provide a copy to the immediate supervisor, and send a copy to the Local Unit Officer (where a collective bargaining agreement exists). Courtesy suggests that you also send a copy to the manager(s) involved. Once you have reached this decision it is unwise to discuss the situation or your feelings with other staff and / or patients.
- **Accept the assignment, documenting your professional concerns for the chronic nature of the request and possible long-term consequences in reducing the quality of care.**
- **Accept the assignment, documenting your personal concerns regarding working conditions in which management decides the legitimacy of employee's personal concerns.** This documentation should go to your manager. You may wish to request a meeting with your manager to discuss the incident and your concerns regarding future requests.
- **Refuse the assignment, being prepared for disciplinary action.** If your reasons for refusal were patient safety, nurse safety, or an imperative personal commitment, document this carefully including the process you used to inform the facility (nurse manager) of your concerns. Keep a personal copy of this documentation, provide a copy to the immediate supervisor, and send a copy to the Local Unit Officer (where a collective bargaining agreement exists). Courtesy suggests that you also send a copy to the area manager.

In addition, you will need to document the rationale for your decision. It may be necessary to use the facility's grievance procedure.

Documentation may either utilize the agency's format, the WSNA forms, or include the following elements on a blank sheet of paper:

- the nurse's name
- the date of the occurrence
- the time of the occurrence
- the person making the request of the nurse
- the nurse's concerns related to the request
- pertinent information about staffing, census, acuity, transfers, discharges, admissions
- the action taken by the nurse

SUMMARY

Principles and considerations for giving, accepting or rejecting an assignment were reviewed. The process to determine whether or not to accept or reject an assignment involved the following:

1. **Clarify** the situation
2. **Assess** the capabilities of the nurse
3. **Identify** all possible options for meeting patient needs
4. **Make a decision**, communicate the decision to the nurse's immediate supervisor, and if appropriate, document the decision-making process

Some specific examples of how a nurse may apply the guidelines for decision-making in the actual work situation have been presented. Staff assignment dilemmas will always be present and mandate that active communication between staff nurses and all levels of nursing management be maintained to assure patient safety.

A proactive approach to potentially conflictive situations can be taken in several ways: the nurse should discuss the potential for conflict before accepting employment in a health care setting. The employer should also anticipate potential conflicts around the patient populations cared for by the agency and develop guidelines addressing the potential conflicts. These guidelines should be shared with prospective employees as part of the interviewing process.

The likelihood of a satisfactory solution will increase if there is prior consideration of the choices available. This consideration of available alternatives should include recognition that nurses are professionals and should be involved in the decision-making process. Professional nurses are accountable for nursing judgments and actions regardless of the personal consequences. Providing safe nursing care to the patient is the ultimate objective of the professional nurse and the health care facility.

APPENDIX I

Standards of Nursing Conduct or Practice

WAC 246-840-700

1. The purpose of defining standards of nursing conduct or practice through WAC 246-840-700 and 246-840-710 is to identify responsibilities of the professional registered nurse and the licensed practical nurse in health care settings and as provided in the Nursing Practice Act, chapter 18.79 RCW. Violation of these standards may be grounds for disciplinary action under chapter 18.130 RCW. Each individual, upon entering the practice of nursing, assumes a measure of responsibility and public trust and the corresponding obligation to adhere to the professional and ethical standards of nursing practice. The nurse shall be responsible and accountable for the quality of nursing care given to clients. This responsibility cannot be avoided by accepting the orders or directions of another person. The standards of nursing conduct or practice include, but are not limited to the following:
2. The nursing process is defined as a systematic problem solving approach to nursing care which has the goal of facilitating an optimal level of functioning and health for the client, recognizing diversity. It consists of a series of phases: assessment, planning, intervention, and evaluation, with each phase building upon the preceding phases.

REGISTERED NURSE

Minimum standards for registered nurses include the following:

*Standard I***Initiating the Nursing Process**

1. **Assessment & Analysis** The registered nurse initiates data collection and analysis that includes pertinent objective and subjective data regarding the health status of the clients. The registered nurse is responsible for ongoing client assessment, including assimilation of data gathered from licensed practical nurses and other members of the health care team;
2. **Nursing Diagnosis / Problem Identification** The registered nurse uses client data and nursing scientific principles to develop nursing diagnosis and to identify client problems in order to deliver effective nursing care;
3. **Planning** The registered nurse shall plan nursing care which will assist clients and families with maintaining or restoring health and wellness or supporting a dignified death;
4. **Implementation** The registered nurse implements the plan of care by initiating nursing interventions through giving direct care and supervising other members of the care team; and
5. **Evaluation** The registered nurse evaluates the responses of individuals to nursing interventions and is responsible for the analysis and modification of the nursing care plan consistent with intended outcomes;

LICENSED PRACTICAL NURSE

Minimum standards for licensed practical nurses include the following:

*Standard I***Implementing the Nursing Process**

The practical nurse assists in implementing the nursing process.

1. **Assessment** The licensed practical nurse makes basic observations, gathers data and assists in identification of needs and problems relevant to the clients, collects specific data as directed, and communicates outcomes of the data collection process in a timely fashion to the appropriate supervising person;
2. **Nursing Diagnosis / Problem Identification** The licensed practical nurse provides data to assist in the development of nursing diagnoses which are central to the plan of care;
3. **Planning** The licensed practical nurse contributes to the development of approaches to meet the needs of clients and families, and develops client care plans utilizing a standardized nursing care plan and assists in setting priorities for care;
4. **Implementation** The licensed practical nurse carries out planned approaches to client care and performs common therapeutic nursing techniques; and
5. **Evaluation** The licensed practical nurse, in collaboration with the registered nurse, assists with making adjustments in the care plan. The licensed practical nurse reports outcomes of care to the registered nurse or supervising health care provider;

<p><i>Standard II</i></p> <p>Delegation and Supervision The registered nurse is accountable for the safety of clients receiving nursing service by:</p> <ol style="list-style-type: none"> 1. Delegating selected nursing functions to others in accordance with their education, credentials, and demonstrated competence as defined in WAC 246-840-010(10); 2. Supervising others to whom he/she has delegated nursing functions as defined in WAC 246-840-010(10); 3. Evaluating the outcomes of care provided by licensed and other paraprofessional staff; 4. The registered nurse may delegate certain additional acts to certain individuals in community-based long-term care and in-home settings as provided by WAC 246-840-910 through 246-840-970 and WAC 246-841-405; and 5. In a home health or hospice agency regulated under chapter 70.127 RCW, a registered nurse may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care pursuant to chapter 246-335 WAC; 	<p><i>Standard II</i></p> <p>Delegation and Supervision Under direction, the practical nurse is accountable for the safety of clients receiving nursing care:</p> <ol style="list-style-type: none"> 1. The practical nurse may delegate selected nursing tasks to competent individuals in selected situations, in accordance with their education, credentials and competence as defined in WAC 246-840-010(10); 2. The licensed practical nurse in delegating functions shall supervise the persons to whom the functions have been delegated; 3. The licensed practical nurse reports outcomes of delegated nursing care tasks to the RN or supervising health care provider; and 4. In community based long-term care and in-home settings as provided by WAC 246-840-910 through 246-840-970 and WAC 246-841-405, the practical nurse may delegate only personal care tasks to qualified care givers;
<p><i>Standard III</i></p> <p>Health Teaching The registered nurse assesses learning needs including learning readiness for patients and families, develops plans to meet those learning needs, implements the teaching plan and evaluates the outcome.</p>	<p><i>Standard III</i></p> <p>Health Teaching The practical nurse assists in health teaching of clients and provides routine health information and instruction recognizing individual differences.</p>

3. The following standards apply to registered nurses and licensed practical nurses:
 - a. The registered nurse and licensed practical nurse shall communicate significant changes in the client's status to appropriate members of the health care team. This communication shall take place in a time period consistent with the client's need for care. Communication is defined as a process by which information is exchanged between individuals through a common system of speech, symbols, signs, and written communication or behaviors that serves as both a means of gathering information and of influencing the behavior, actions, attitudes, and feelings of others; and
 - b. The registered nurse and licensed practical nurse shall document, on essential client records, the nursing care given and the client's response to that care; and
 - c. The registered nurse and licensed practical nurse act as client advocates in health maintenance and clinical care.
4. Other responsibilities:
 - a. The registered nurse and the licensed practical nurse shall have knowledge and understanding of the laws and rules regulating nursing and shall function within the legal scope of nursing practice;
 - b. The registered nurse and the licensed practical nurse shall be responsible and accountable for his or her practice based upon and limited to the scope of his/her education, demonstrated competence, and nursing experience consistent with the scope of practice set forth in this document; and
 - c. The registered nurse and the licensed practical nurse shall obtain instruction, supervision, and consultation as necessary before implementing new or unfamiliar techniques or procedures which are in his/her scope of practice.
 - d. The registered nurse and the licensed practical nurse shall be responsible for maintaining current knowledge in his/her field of practice; and
 - e. The registered nurse and the licensed practical nurse shall respect the client's right to privacy by protecting confidential information and shall not use confidential health care information for other than legitimate patient care purposes or as otherwise provided in the Health Care Information Act, chapter 70.02 RCW.

Violations of Standards of Nursing Conduct or Practice

WAC 246-840-710

The following conduct may subject a nurse to disciplinary action under the Uniform Disciplinary Act, chapter 18.130 RCW:

1. Engaging in conduct described in RCW 18.130.180;
 2. Failure to adhere to the standards enumerated in WAC 246-840-700 which may include, but are not limited to:
 - a. Failing to assess and evaluate a client's status or failing to institute nursing intervention as required by the client's condition;
 - b. Willfully or repeatedly failing to report or document a client's symptoms, responses, progress, medication, or other nursing care accurately and / or legibly;
 - c. Willfully or repeatedly failing to make entries, altering entries, destroying entries, making incorrect or illegible entries and / or making false entries in employer or employee records or client records pertaining to the giving of medication, treatments, or other nursing care;
 - d. Willfully or repeatedly failing to administer medications and / or treatments in accordance with nursing standards;
 - e. Willfully or repeatedly failing to follow the policy and procedure for the wastage of medications where the nurse is employed or working;
 - f. Nurses shall not sign any record attesting to the wastage of controlled substances unless the wastage was personally witnessed;
 - g. Willfully causing or contributing to physical or emotional abuse to the client;
 - h. Engaging in sexual misconduct with a client as defined in WAC 246-840-740; or
 - i. Failure to protect clients from unsafe practices or conditions, abusive acts, and neglect;
 3. Failure to adhere to the standards enumerated in WAC 246-840-700(2) which may include:
 - a. Delegating nursing care function or responsibilities to a person the nurse knows or has reason to know lacks the ability or knowledge to perform the function or responsibility, or delegating to unlicensed persons those functions or responsibilities the nurse knows or has reason to know are to be performed only by licensed persons. This section should not be construed as prohibiting delegation to family members and other caregivers exempted by RCW 18.79.040(3), 18.79.050, 18.79.060 or 18.79.240; or
 - b. Failure to supervise those to whom nursing activities have been delegated. Such supervision shall be adequate to prevent an unreasonable risk of harm to clients;
 4. a. Performing or attempting to perform nursing techniques and / or procedures for which the nurse lacks the appropriate knowledge, experience, and education and / or failing to obtain instruction, supervision and / or consultation for client safety;
 - b. Violating the confidentiality of information or knowledge concerning the client, except where required by law or for the protection of the client; or
 - c. Writing prescriptions for drugs unless authorized to do so by the commission;
 5. Other violations:
 - a. Appropriating for personal use medication, supplies, equipment, or personal items of the client, agency, or institution. The nurse shall not solicit or borrow money, materials or property from clients;
 - b. Practicing nursing while affected by alcohol or drugs, or by a mental, physical or emotional condition to the extent that there is an undue risk that he or she, as a nurse, would cause harm to him or herself or other persons; or
 - c. Willfully abandoning clients by leaving a nursing assignment, when continued nursing care is required by the condition of the client(s), without transferring responsibilities to appropriate personnel or caregiver;
 - d. Conviction of a crime involving physical abuse or sexual abuse including convictions of any crime or plea of guilty, including crimes against persons as defined in chapter 43.830 RCW [RCW 43.830] and crimes involving the personal property of a patient, whether or not the crime relates to the practice of nursing; or
 - e. Failure to make mandatory reports to the Nursing Care Quality Assurance Commission concerning unsafe or unprofessional conduct as required in WAC 246-840-730;
- Other:*
6. The nurse shall only practice nursing in the state of Washington with a current Washington license;
 7. The licensed nurse shall not permit his or her license to be used by another person;
 8. The nurse shall have knowledge of the statutes and rules governing nursing practice and shall function within the legal scope of nursing practice;
 9. The nurse shall not aid, abet or assist any other person in violating or circumventing the laws or rules pertaining to the conduct and practice of professional registered nursing and licensed practical nursing; or
 10. The nurse shall not disclose the contents of any licensing examination or solicit, accept or compile information regarding the contents of any examination before, during or after its administration.

APPENDIX II**For Further Information****Washington State Nursing Care Quality Assurance Commission**

P.O. Box 47864
Olympia, WA 98507-1099
360.236.4702
www.doh.wa.gov/LicensesPermitsandCertificates/NursingCommission.aspx

Washington State Nurses Association

575 Andover Park West, Suite 101
Seattle, WA 98188
206.575.7979
206.575.1908 (fax)
www.wsna.org

American Nurses Association

8515 Georgia Avenue
Suite 400
Silver Spring, MD 20910-3492
301.628.5000
301.628.5001 (fax)
1-800-274-4ANA (4262)
www.nursingworld.org

National Council of State Boards of Nursing

676 N. St. Clair Street, Suite 550
Chicago IL 60611-2921
312.787.6555
www.ncsbn.org

APPENDIX III

Assignment Despite Objection (ADO) Form

INSTRUCTIONS

A nurse questioning an assignment is encouraged to communicate this concern in the following manner:

- Discuss the concern with the person responsible for the assignment on that shift. This person should then assess options and seek to remedy the situation. When no alternatives are identified as possible, the person in charge should contact his / her immediate supervisor on duty.
- The supervisor should attempt to resolve the situation utilizing available resources as he/she determines appropriate.
- If the nurse is dissatisfied with the decision of the supervisor, the nurse should initiate an Assignment Despite Objection (ADO) form and, if necessary, a quality management form, prior to end of the shift.
- If there is no mutually satisfactory resolution to the problem, and the problem appears to be one which will be recurring, the nurse may submit his / her documentation to the unit staff meeting.
- If the problem is unresolved, the Local Unit should submit the documentation for review and recommendations to the Nurse Practice Committee or Conference Committee, as the Association designates. The parties shall ensure that patient confidentiality standards are fully met.
- Nurses who raise assignment concerns should be free from restraint, interference, discrimination, or reprisal.

WHAT TO DO AND WHEN TO DO IT

	Nurse	Supervisor	Local Unit Officers	WSNA (Nurse Rep)
Timeframe for Action	Day of complaint	1 - 14 days	14 - 30 days	30 - 60 days
Action(s)	File one copy; one copy to immediate supervisor; one copy to LU Officer	Investigates	Bring to conference committee	Examine trends
	Await response	Responds to nurse	Responds to nurse	



Assignment Despite Objection

I, _____, a Registered Nurse employed at _____
(Name) (Hospital / Agency)

on _____, _____ hereby object to the assignment as
(Shift) (Date)

☐ charge / lead nurse ☐ team leader ☐ primary nurse ☐ staff nurse ☐ other

made to me by _____ at _____ on _____
(Supervisor / Person in charge) (Time) (Date)

In my professional opinion, the situation described here is not adequate to meet the needs of the patients assigned to me at this time. Please be aware that while I will do all that I can to ensure safe and proper care for my patients, I fear that my efforts and those of the staff may not be sufficient. Therefore, I am informing you that I cannot take responsibility for any error or incidents that take place as a result of this unsafe condition created by inadequate staffing, systems / equipment failures.

My objections to this assignment are (check all that apply):

- | | | |
|---|--|---|
| <input type="checkbox"/> Charge nurse unable to perform charge nurse duties , secondary to increased patient care assignment | <input type="checkbox"/> Not oriented to this unit / case load | <input type="checkbox"/> This assignment posed a serious threat to my health and safety |
| <input type="checkbox"/> Inadequate nurse to patient ratios for patient acuity based on my clinical judgment | <input type="checkbox"/> Patient care equipment missing or unusable | <input type="checkbox"/> This assignment posed a serious threat to the health and safety of a patient under my direct care |
| <input type="checkbox"/> Insufficient support staff requires me to assume additional duties | <input type="checkbox"/> Necessary equipment is not available
e.g.: supplies, IVs, medication availability | <input type="checkbox"/> Forced / Mandatory Overtime |
| <input type="checkbox"/> Not trained or experienced in area assigned | <input type="checkbox"/> Not trained or experienced to use equipment in assigned area | <input type="checkbox"/> Missed breaks
<input type="checkbox"/> Meal breaks <input type="checkbox"/> Rest breaks |
| | <input type="checkbox"/> System failure
e.g.: computer, phone, pyxis, call system | <input type="checkbox"/> Other |

Brief statement of problem(s), including any pertinent information about staffing, census, acuity, transfers, discharges, and / or admissions:

Those I notified about my objection to this assignment:

Signature _____ Date / Time _____ Home phone number _____

! **Complete this form and have it signed by your immediate supervisor.**
Make **two copies**; give one to the **supervisor**, one to a **local unit officer**, and **keep the original** for your records.
Please consider also completing your own facility's organizational Quality Assurance Form.

Supervisor

Supervisor's Name _____

Supervisor's Title _____

Action taken _____

Supervisor's Signature _____

Date / Time _____

Local Unit

Name of Local Unit Officer _____

Date / Time _____

APPENDIX IV

Scope of Practice Decision Tree

Adopted by permission of the National Council of State Boards of Nursing. Revised 7 December 2011.

1. Describe the act to be performed.

Review the scope of practice for your licensure level:

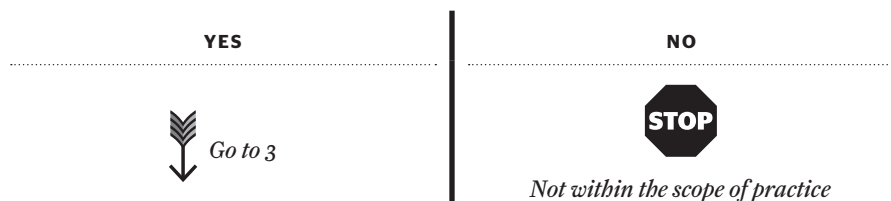
RN	Assessment, nursing diagnosis, setting goals, planning care strategies, implementing care, delegating care to qualified others, supervising, evaluating, teaching, managing care, maintaining client safety, collaborating with other health care members.
LPN	Contributing to assessment, participating in development of plan of care, implementing aspects of care as directed, maintaining client safety, participating in evaluating care, and delegating care to qualified others.
ARNP	Assessing clients, synthesizing and analyzing data, understanding and applying nursing principals at an advanced level; providing expert teaching and guidance; working effectively with clients, families and other members of the health care team; managing clients' physical and psycho-social health-illness status; utilizing research skills; analyzing multiple sources of data, identifying alternative possibilities as to the nature of a health care problem, and selecting appropriate treatment; making independent decisions in solving complex client care problems; performing acts of diagnosing, prescribing, administering and dispensing therapeutic measures; and recognizing limits of knowledge and experience, planning for situations beyond expertise, consulting with or referring to other health care providers as appropriate.

Is the act expressly permitted or prohibited by the Nurse Practice Act for the license you hold?

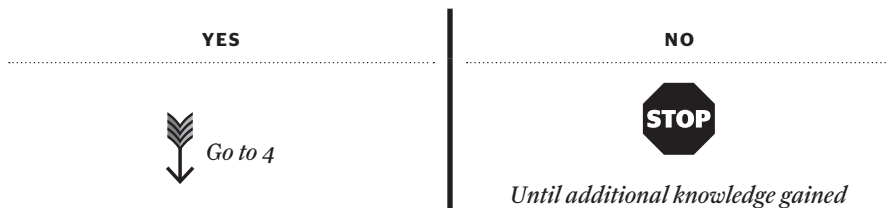


2. Is the act consistent with at least one of the following standards?

- Nursing Care Quality Assurance Commission (NCQAC) standards of practice
- National nursing organization standards of practice
- Nursing literature and research
- Reasonable, prudent nurse in similar circumstances



3. Do you personally possess the depth and breadth of knowledge to perform the act safely and effectively, as acquired in a pre - licensure program, post-basic program, continuing education program or structured self-study?



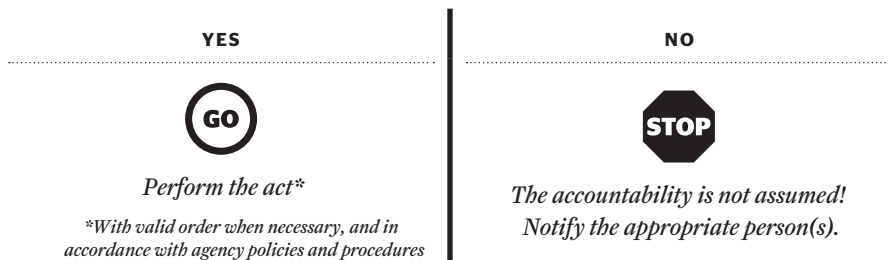
4. Do you personally possess current clinical skills to perform the act safely?



5. Is the performance of the act within the accepted “standard of care” which would be provided in similar circumstances by reasonable and prudent nurses who have similar training and experience and consistent with appropriately established facility / agency policies and procedures?



6. Are you prepared to accept the consequences of your action?



INTERPRETIVE STATEMENTS

NCQAC members, as well as the Department of Health staff members who carry out the work of the NCQAC, are not able to answer specific clinical scope of practice questions either on the telephone, via e-mail, or in writing. However, several resources have been developed and approved by the NCQAC to assist individual nurses to analyze and review their own questions. Staff at the NCQAC office are available to listen to your questions so that appropriate materials can be supplied as you decide how best to proceed with your particular clinical situation.

Resources currently available are:

- Scope of Practice Decision Making Tree
- The Law Relating to Nursing (often referred to as the “Nurse Practice Act”)
- Interpretive Statements issued by the NCQAC which may be applicable to your issue
- A large variety of professional nursing associations and health care organizations are active in this State and may be able to advise you about current practice.
- Many nurses have been assisted with practice questions after researching current nursing literature, by reviewing employee standard procedure manuals, and by consulting with their own organization's staff education offices.

If you feel you still need a response to your question, please submit an Item Review Form found on the NCQAC website. Once the office has received your written request, the practice committee of the NCQAC will evaluate the request to determine whether or not the NCQAC will consider issuing a written interpretive statement.

APPENDIX V

Patient Abandonment

Department of Health Nursing Care Quality Assurance Commission Policy

Title:	Patient Abandonment Defined	Number:	A13.05
Reference:			
Contact:	Mary Dale, Discipline Manager		
Effective Date:	March 13, 2009		
Supersedes:	July 1, 2005; October 22, 2003 Amended to correct WAC citation. October 25, 1996 Amended 9/28/01 to reflect correct WAC citation. The LPN and RN Boards were merged in 1994 and the rules were combined in 1997 which resulted in new WAC numbers.		
Approved:	Chair Washington State Nursing Care Quality Assurance Commission		

Purpose Statement:

This policy will clarify WAC 246-840-710(5)(c).

Policy Statement:

A licensed nurse-patient relationship begins when the nurse accepts the assignment for patient care. Patient abandonment occurs when the nurse leaves the nursing assignment without transferring patient care and giving specific patient information to an appropriate care giver.

The Nursing Commission is utilizing the following terms for the purpose of this policy:

“Nursing assignment” - nursing care functions or responsibilities which the nurse has been directed to perform by a person authorized to administer, supervise, or direct the nurse; or independently assumed responsibility for, based on his or her own professional judgment.

“Transferring patient care” - reporting the condition, circumstances, and needs of all patients under the nurse’s care in oral or written form directly to another nurse or appropriate caregiver who acknowledges receipt and understanding of the report.

“Appropriate caregiver” - state-regulated health care professional whose scope of practice and qualifications include the transferred nursing care functions/responsibilities or appropriate family members as may be defined in the agency policies.

Examples:

The following situations are NOT examples of patient abandonment but are examples of employer-employee issues, and will not subject the licensee to possible disciplinary action by the Commission:

- A licensed nurse has completed his/her regularly scheduled work shift, and then notifies the employer that the employment relationship between the nurse and the employer is being ended.
- A licensed nurse ends the employer-employee relationship without providing the employer a period of time to obtain a replacement for the specific position which the licensee held.
- A licensed nurse does not return from a scheduled leave of absence, and has not provided the employer with period of time to obtain replacement staff for that position.
- A licensed nurse is asked to work beyond his/her regularly scheduled work shift and informs the employer he/she will not comply with that request.

The Commission believes that failure of the licensee to provide the employer with sufficient notice of intent to end the employment relationship does not constitute patient abandonment. However, the Commission does not encourage licensees to end their employment relationships in such a manner.

This policy is intended to address only the rules cited above regarding patient abandonment, and should not be construed to modify in any way the Nursing Commission’s interpretation of any other laws related to nursing care, nor should it be construed to relieve the licensed nurse from the requirement to abide by all other laws related to nursing practice, including standards of practice set forth in WAC 246-840.

Questions of Assignment

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Questions from nurses, supervisors, employers, etc., frequently arise regarding delegation of assignments and refusal of assignments. “Floating” is frequently expressed as an area of concern. Nurses may feel incompetent to fill in on units with which they are unfamiliar (especially critical care units). Sometimes nurses are asked to take more responsibility than they feel competent to handle (i.e. being asked to be in charge of an unfamiliar unit).

Nurses may also feel that their assignment is “too heavy” and may be required to work overtime or double shifts when they feel mentally and/or physically fatigued. Nurses may be asked to do a specific task or procedure that they do not feel qualified to perform or that they believe is beyond their scope of practice. The situations that arise are many and varied. There are no clear-cut answers or solutions and the majority of these types of situations should be resolved through cooperative efforts of the parties involved at the employment setting.

There are, however, laws, rules and regulations that all nurses should be aware when trying to resolve this type of situation (RCW 18.130.080, WAC 246-840-710). Unprofessional conduct is grounds for disciplinary action against a nursing license. Some of the grounds that relate specifically to assignments are:

- Failure to utilize appropriate judgment in administering safe nursing practice including failure to supervise those to whom nursing activities have been delegated.
- Incompetence, negligence or malpractice, which results in injury to a patient or which creates a risk that a patient may be harmed.
- Performing acts beyond the scope of practice for which the nurse is licensed.
- Performing nursing techniques or procedures for which the nurse lacks knowledge, experience, and education without instruction, supervision, and/or consultation.
- Delegating nursing care, functions, tasks or responsibilities to others who the nurse knows or has reason to know lacks the ability or knowledge to perform or delegating to unlicensed persons those functions or responsibilities, which are to be performed only by licensed persons.
- Leaving a patient care nursing assignment without notifying personnel so that reasonable arrangements for continuation of care can be made when continued nursing care is required by the condition of the patient.

At times, nurses are told by physicians, other nurses, or supervisors to “just follow orders and my license will cover you”. Nurses may also be threatened with job loss if they do not accept the assignment. The license of one person can never protect another licensee from potential disciplinary action if the licensee violates a law or any of the rules and regulations. Nor can another person’s license protect the nurse from potential civil and/or criminal liability.

All registered nurses are accountable to not delegate nursing care, functions, tasks, or responsibilities that are contrary to the law or to the detriment of patient safety. On the other hand, the nurse accepting an assignment is accountable to utilize appropriate judgment when accepting an assignment and to utilize technical competence when carrying out nursing care.

Nurses may be told that if they refuse an assignment they may lose their license for abandonment of the patients. Abandonment occurs **only** when the nurse willfully leaves an assignment he or she has accepted without transferring responsibilities to appropriate personnel. The consequences if a disciplinary action is taken against an individual’s license range from a letter of reprimand to license revocation, including probation, limitations, or a fine. At no time is revocation of one’s license an automatic consequence of disciplinary action. Nurses should always utilize appropriate judgment when considering the refusal of an assignment. A possible alternative to refusal would be to accept that part of the assignment that the nurse feels competent to perform and assist with those activities for which the nurse does not feel competent to accept total responsibility and accountability.

The laws and rules of the Nursing Practice Act are available on the Nursing Commission website at: www.doh.wa.gov/LicensesPermitsandCertificates/NursingCommission/Laws.aspx. Also see practice information, the Scope of Practice Decision Tree [also found in Appendix IV of this document], and position statements by the Nursing Commission by clicking on “Practice Information” in the site directory.



Please note: For the most current copy of this Appendix, please refer to www.doh.wa.gov/LicensesPermitsandCertificates/NursingCommission.aspx

APPENDIX VI

Hours of health care facility employees – Definitions

RCW 49.28.130

The definitions in this section apply throughout this section and RCW 49.28.140 and 49.28.150 unless the context clearly requires otherwise.

1. “Employee” means a licensed practical nurse or a registered nurse licensed under chapter 18.79 RCW employed by a health care facility who is involved in direct patient care activities or clinical services and receives an hourly wage.
2. “Employer” means an individual, partnership, association, corporation, the state, a political subdivision of the state, or person or group of persons, acting directly or indirectly in the interest of a health care facility.
3.
 - a. “Health care facility” means the following facilities, or any part of the facility, including such facilities if owned and operated by a political subdivision or instrumentality of the state, that operate on a twenty-four hours per day, seven days per week basis:
 - I. Hospices licensed under chapter 70.127 RCW;
 - II. Hospitals licensed under chapter 70.41 RCW;
 - III. Rural health care facilities as defined in RCW 70.175.020;
 - IV. Psychiatric hospitals licensed under chapter 71.12 RCW; or
 - V. Facilities owned and operated by the department of corrections or by a governing unit as defined in RCW 70.48.020 in a correctional institution as defined in RCW 9.94.049 that provide health care services to inmates as defined in RCW 72.09.015.
 - b. If a nursing home regulated under chapter 18.51 RCW or a home health agency regulated under chapter 70.127 RCW is operating under the license of a health care facility, the nursing home or home health agency is considered part of the health care facility for the purposes of this subsection.
4. “Overtime” means the hours worked in excess of an agreed upon, predetermined, regularly scheduled shift within a twenty-four hour period not to exceed twelve hours in a twenty-four hour period or eighty hours in a consecutive fourteen-day period.
5. “On-call time” means time spent by an employee who is not working on the premises of the place of employment but who is compensated for availability or who, as a condition of employment, has agreed to be available to return to the premises of the place of employment on short notice if the need arises.
6. “Reasonable efforts” means that the employer, to the extent reasonably possible, does all of the following but is unable to obtain staffing coverage:
 - a. Seeks individuals to volunteer to work extra time from all available qualified staff who are working;
 - b. Contacts qualified employees who have made themselves available to work extra time;
 - c. Seeks the use of per diem staff; and
 - d. Seeks personnel from a contracted temporary agency when such staffing is permitted by law or an applicable collective bargaining agreement, and when the employer regularly uses a contracted temporary agency.
7. “Unforeseeable emergent circumstance” means (a) any unforeseen declared national, state, or municipal emergency; (b) when a health care facility disaster plan is activated; or (c) any unforeseen disaster or other catastrophic event which substantially affects or increases the need for health care services.

[2011 c 251 § 1; 2002 c 112 § 2.]

Notes:

Finding — 2002 c 112: “Washington state is experiencing a critical shortage of qualified, competent health care workers. To safeguard the health, efficiency, and general well-being of health care workers and promote patient safety and quality of care, the legislature finds, as a matter of public policy, that required overtime work should be limited with reasonable safeguards in order to ensure that the public will continue to receive safe, quality care.” [2002 c 112 § 1.]

Hours of health care facility employees – Mandatory overtime prohibited – Exceptions

RCW 49.28.140

1. No employee of a health care facility may be required to work overtime. Attempts to compel or force employees to work overtime are contrary to public policy, and any such requirement contained in a contract, agreement, or understanding is void.
2. The acceptance by any employee of overtime is strictly voluntary, and the refusal of an employee to accept such overtime work is not grounds for discrimination, dismissal, discharge, or any other penalty, threat of reports for discipline, or employment decision adverse to the employee.
3. This section does not apply to overtime work that occurs:
 - a. Because of any unforeseeable emergent circumstance;
 - b. Because of prescheduled on-call time;
 - c. When the employer documents that the employer has used reasonable efforts to obtain staffing. An employer has not used reasonable efforts if overtime work is used to fill vacancies resulting from chronic staff shortages; or
 - d. When an employee is required to work overtime to complete a patient care procedure already in progress where the absence of the employee could have an adverse effect on the patient.

[2002 c 112 § 3.]

Notes:

Finding — 2002 c 112: See note following RCW 49.28.130.

Hours of health care facility employees – Penalties

RCW 49.28.150

The department of labor and industries shall investigate complaints of violations of RCW 49.28.140. A violation of RCW 49.28.140 is a class 1 civil infraction in accordance with chapter 7.80 RCW, except that the maximum penalty is one thousand dollars for each infraction up to three infractions. If there are four or more violations of RCW 49.28.140 for a health care facility, the employer is subject to a fine of two thousand five hundred dollars for the fourth violation, and five thousand dollars for each subsequent violation. The department of labor and industries is authorized to issue and enforce civil infractions according to chapter 7.80 RCW.

[2002 c 112 § 4.]

Notes:

Finding — 2002 c 112: See note following RCW 49.28.130.

