

October 26, 2023

Craig Blackwood
Assistant Director, Division of Occupational Safety and Health
Washington State Department of Labor and Industries
7273 Linderson Way SW
Tumwater, WA 98501-5414
Craig.Blackwood@lni.wa.gov.

Dear Assistant Director Blackwood,

We are writing to submit a complaint regarding Virginia Mason Medical Center's (Virginia Mason) compliance with applicable Washington workplace violence laws and rules. The Washington State Nurses Association (WSNA) is the bargaining representative of 650 registered nurses at Virginia Mason. Virginia Mason's problems with workplace violence have been documented by our members at the hospital, and WSNA submits that the prevalence of workplace violence incidents at Virginia Mason is the result of Virginia Mason's lack of compliance with statutory and regulatory requirements. The Washington Department of Labor and Industries (L&I) Division of Occupational Safety and Health (DOSH) should investigate Virginia Mason's compliance with the following:

1. DOSH *general workplace violence rules* (WAC 29-800-11005) which requires it to "provide [its] employees a workplace free from recognized hazards that are causing, or are likely to cause, serious injury or death" and to "provide and use safety devices, safeguards, and use work practices, methods, process, and that are reasonably adequate to make [its] workplace safe." These requirements are reflected in DOSH Directive 5.05.
2. Provisions of Chapter 49.19 RCW, Safety – Health Care Settings. These include requirements regarding its workplace violence plan (RCW 49.19.020), its workplace violence training (RCW 49.19.030), and its workplace violence record keeping (RCW 49.19.040). These requirements are also reflected in DOSH Directive 5.07.

The prevalence of workplace violence incidents and Virginia Mason's reluctance to take serious measures to reduce the occurrences of workplace violence place it in violation of WAC 29-800-11005. Virginia Mason has failed to provide "a workplace free from recognized hazards that are causing or are likely to cause serious injury or death," as evidenced by a recurring pattern of violent incidents. The nurses at Virginia Mason report that they regularly feel unsafe at work. There are countless examples of nurses being attacked by patients or visitors; or having witnessed violence against a co-worker. Several recent examples:

- On October 21, 2023, a nurse witnessed a patient care technician (PCT) in the violent chokehold of a patient. The nurse hit the 'panic button' and approached the scene. It took the nurse and two other staff members to free the PCT from the chokehold and the nurse was thrown against the wall in their effort to free the patient. The patient was eventually contained by the staff members, none of whom were

security personnel. It took security approximately 15-20 minutes to arrive. Incident documented in staffing complaint.

- On July 12, 2023, a nurse was stabbed by a patient with a metal butter knife, resulting in an emergency department visit. The incident is documented in a safe staffing complaint and the nurse's statements in a recent *Seattle Times* article on a picket and workplace violence issues at Virginia Mason.¹
- On July 11, 2023, a patient's husband was acting unruly, was searched by security, and was found to have a gun in his bag. Incident documented in staffing complaint.
- A nurse reported being bitten by a patient in an incident occurring on July 18th, 2023.
- In September 2022, a nurse was attacked by a patient with a hammer, which barely missed their head, and broke a hole in the wall. This incident was also noted in the aforementioned *Seattle Times* article.

The incidence of workplace violence in health care is widely underreported², so it is likely that this is just a small sample of a much larger set of incidents. WSNA and our members have made it clear to Virginia Mason that nurses feel highly vulnerable to patient and visitor attacks at work, yet Virginia Mason has failed to take meaningful action to provide a safer workplace. Virginia Mason has failed to institute several measures that are common at other area hospitals, including having visitors sign-in, the use of metal detectors, having a security dog on site, and hiring sufficient nurses and security guards for nurses to have sufficient backup when providing care to patients who have been identified as posing a high risk of violence. WAC 296-800-11005 requires employers to provide "a workplace free from recognized hazards"—hazards that are commonly known in the employer's industry. Virginia Mason is clearly failing to provide a workplace free from recognized hazards.

In addition to general workplace violence rules, Virginia Mason's compliance with healthcare workplace violence laws warrants investigation. We requested Virginia Mason's workplace violence plan and workplace violence records six weeks ago. In response, Virginia Mason provided us with standard OSHA 300 logs but not the violence prevention plan or workplace violence incident records³ despite repeated requests.⁴

The severity of the workplace violence problems alone warrants an investigation into Virginia Mason's compliance with the healthcare setting requirements. Its failure to provide information related to its statutory obligations heightens the need for a DOSH investigation. WSNA believes the following questions should be investigated to assess Virginia Mason's compliance with the state law:

1. *Does Virginia Mason have a workplace violence plan that includes the required subjects described in RCW 49.19.020?* If a plan exists, is it specific to Virginia Mason, as the law requires, or is it a plan of a parent corporation, CommonSpirit Health or its regional division? Does the plan address all the subjects required under the RCW? Does Virginia Mason adequately enforce all aspects of the plan? DOSH

¹ *Virginia Mason nurses picket over violence, attacks at work. Seattle Times.* October 10, 2023.

<https://www.seattletimes.com/seattle-news/health/virginia-mason-nurses-picket-over-violence-attacks-at-work/>

² See, e.g., RCW 49.19.005(3).

³ These records can be captured in expanded OSHA 300 logs, but we found no evidence that they were included in the OSHA logs.

⁴ An email from Virginia Mason dated September 23, 2023, was ambiguous about whether that information might be provided at a later date. Since we have not heard anything since then, we believe it unlikely that the documents are forthcoming.

Directive 5.07 notes that violation of the requirement to have a written plan is a violation of WAC 296-800-14005's requirement to tailor the Accident Prevention Program to the workplace. Having a plan in place but failing to enforce it is a violation of WAC 296-800-14025.

2. *Does Virginia Mason have a functioning safety committee to address workplace violence as required by 49.19.020? Does the committee meet on a regular basis? Does the committee have a charter? How are the members of the committee selected and who is on the committee? Does the committee consider all the factors that can result in workplace violence, such as inadequate staffing? Failure to work with the safety committee to develop, implement and monitor the plan is a violation of WAC 296-800-13020.*
3. *Is Virginia Mason providing adequate violence prevention training for all nurses within 90 days of hiring, and on a regular basis thereafter, that addresses all topics required in RCW 49.18.030? Several nurses reported to WSNA that they had taken an online CommonSpirit Health training, but it is unclear if it covers all the subjects required by Washington law. (CommonSpirit is headquartered in Chicago.) Is Virginia Mason providing the training on a regular basis, as required, or just an initial training?*
4. *Is Virginia Mason documenting and keeping the records of "any violent act against an employee or patient" for five years as required by RCW 49.19.040? Virginia Mason's 2023 OSHA 300 logs (through 8/23/23) had zero incidents of patients or visitors attacking and injuring nurses. We know from numerous accounts from our members, some of which are detailed above, that this is simply not accurate—seriously calling into question Virginia Mason's record keeping. RCW 49.19.040 requires that records of violent acts be kept for 5 years, "during which time it shall be available for inspection by the department upon request." A DOSH inspection would shed more light on Virginia Mason's record keeping practices.*

Under RCW 49.19.050, noncompliance with Chapter 49.19 can subject the employer to citation under Chapter 49.17 RCW. While we believe that Virginia Mason should be held accountable for noncompliance if found by a DOSH investigation, we also believe that such an investigation can—by revealing deficiencies in Virginia Mason's violence prevention and record keeping practices—lead to a safer workplace for Virginia Mason's nurses, other health care workers, patients, and visitors. We would be happy to connect DOSH investigators with our members who can speak about workplace violence issues at Virginia Mason.

Sincerely,

Ian Mikusko
Washington State Nurses Association
206-445-9612

cc: Joel Sacks, Director, Washington State Department of Labor and Industries
Elizabeth Smith, Deputy Director, Washington State Department of Labor and Industries
Sara Frey, Nurse Representative, Washington State Nurses Association