



## **The American Nurses Association Comments on the WI Department of Justice Decision to Pursue Criminal Charges Against an RN in Wisconsin**

The American Nurses Association (ANA) supports nurses who are in the unfortunate position to be involved in an unintentional medical error, recognizing that there is always a balance of personal accountability and systemic impacts. ANA is deeply concerned by the filing of criminal charges by the WI Department of Justice (DOJ) against the registered nurse in Madison, Wisconsin given the apparently unintentional nature of the error. Additionally, with the greatest sense of empathy, ANA sends its heartfelt thoughts to the patient's family.

While not in a position to comment on the specifics of the situation involving a former St. Mary's Hospital and Medical Center registered nurse, ANA is concerned about the overall implications of this case with regard to registered nurses, nursing care and patient safety.

The 2004 Institute of Medicine report, *Keeping Patients Safe: Transforming the Work Environment of Nurse*, speaks to many risk factors within the nurse's day-to-day work environment that impact his/her ability to provide safe patient care. These factors include: more acutely ill patients; shorter hospital stays; frequent patient turnover; high staff turnover; long work hours; increased interruptions and demands on nurses' time; rapid increase in new knowledge and technology; and changes in the deployment of all types of nursing personnel with varying skills, knowledge and ability. Each of these factors must be taken into consideration when determining the alleged negligence of this nurse. Also, ANA believes that inappropriate staffing and skill mix, including the use of voluntary and/or mandatory overtime as a staffing tool, contributes to fatigue and an unsafe patient care environment.

ANA is very concerned that – in a rush to judgment - the existing regulatory system may have been bypassed. The Wisconsin Department of Regulation and Licensing has the authority to investigate such cases and issue penalties for wrong-doing. It appears that the usual public protection process related to professional licensure may have been circumvented and prevented the professional review about the nature of the event and the nurse's accountability.

ANA believes that this criminal indictment will have a chilling effect on the willingness of registered nurses and other health care professionals to report errors for fear of prosecution. The 1999 Institute of Medicine report, *To Err is Human*, noted that it is critical that a more conducive environment be established that encourages organizations and individuals to "identify, analyze, and report errors without the threat of litigation and without compromising patients' legal rights." This action on the part of the WI Department of Justice may have far reaching ramifications as nurses and other health professionals consider their vulnerabilities in reporting errors.

Finally, ANA acknowledges that nurses are individually accountable and responsible for their actions. Given this, nurses must rely on the profession's foundational documents for guiding their decisions. *The Code of Ethics for Nurses with Interpretative Statements (2001)*, *Nursing: Scope and Standards of Practice (2004)*, and *Nursing's Social Policy Statement (2003)*, delineate the professional responsibilities for all practicing registered nurses, regardless of setting.