

Position Statement

Patient Safety: Rights of Registered Nurses When Considering a Patient Assignment

Effective Date: March 12, 2009

Status: Revised Position Statement

Originated By: Congress on Nursing Practice and Economics

Revised By: Congress on Nursing Practice and Economics

Adopted By: ANA Board of Directors

Related Past Action: Replaces Position Statement (1995): *The Right to Accept or Reject an Assignment*

Purpose: The purpose of this statement is to reaffirm the American Nurses Association's position on the rights of registered nurses when considering an unsafe patient¹ assignment from an employer.¹ This statement focuses on the issue of the rights of registered nurses professionally, and while the statement mentions the legal rights and obligations of registered nurses, it is not intended to define such legal rights and obligations.

Statement of ANA Position: The American Nurses Association (ANA) upholds that registered nurses – based on their professional and ethical responsibilities – have the professional right to accept, reject or object in writing to any patient assignment that puts patients or themselves at serious risk for harm. Registered nurses have the professional obligation to raise concerns regarding any patient assignment that puts patients or themselves at risk for harm. The professional obligations of the registered

¹ ANA in its *Nursing Social Policy Statement* “recognized the importance of clearly identifying the recipients of professional nursing care, be they individuals, groups, families, communities, or populations.” The *Social Policy Statement* notes that “to date, professional nursing has not yet selected . . . the term best depicting the healthy or ill recipients of professional nursing care.” Therefore, the term “patient” was selected to be used “throughout the text to provide consistency and brevity” . . . and asks “readers to keep in mind the breadth of nursing practice always includes the various recipients of care” be they the individual, the group, the family, the community or the population.” *Nursing's Social Policy Statement* (2nd edition) 2003. American Nurses Association, p.v & 22.

nurse to safeguard patients are grounded in the *Nursing's Social Policy Statement* (ANA, 2003), *Code of Ethics for Nurses with Interpretive Statements* (ANA, 2001b), *Nursing: Scope and Standards of Practice* (ANA, 2004), and state laws, and rules and regulations governing nursing practice.

History/previous position statements: This statement replaces a previous ANA position statement (1995), *The Right to Accept or Reject an Assignment*. In 1984, the ANA House of Delegates first directed the ANA to issue a position statement on mechanisms to support the registered nurse's ability to exercise the right to accept or reject a patient assignment.

Supportive Material: The dangerous impact of unsafe staffing on the safety and quality of patient care is validated in a growing body of research (Aiken, Clarke, Sloane, Sochalski, & Silber, 2002; Curtin, 2003; Needleman, Buerhaus, Stewart, Zelevinsky, & Mattke, 2006; Sovie & Jawad, 2001). Safe patient care – regardless of practice setting - is predicated on having an adequate number of registered nurses with the appropriate skill mix providing nursing care. In the absence of safe staffing that permits safe care delivery assignments, registered nurses are placed in professional jeopardy. An unsafe practice situation can arise from a number of circumstances including “inadequate or inappropriate staffing or staffing mixes, improper policies and procedures, or a lack of supplies or equipment” (New York State Nurses Association, 2005, p. 3). Such circumstances may result in a situation where the registered nurse's obligations to provide safe, competent, and ethical care cannot be fulfilled.

As one of nursing's foundational documents, *Nursing's Social Policy Statement* (ANA, 2003) states, professional nursing is “based on a social contract that acknowledges professional rights and responsibilities as well as mechanisms for public accountability (p. 2).” Citing Donabedian's writings in *The Nursing Audit: Self-Regulation in Nursing Practice* (1972), *Nursing's Social Policy Statement* recognizes that society grants the nursing profession autonomy in practice with the understanding that professionals act responsibly, keeping the public trust in the forefront (p. 2). Society trusts that registered

nurses critically consider the overall safety of patients when considering whether to accept, reject, or object in writing to any patient assignment. In some instances, nurses may elect to continue working understanding greater harm may occur by work stoppage. ANA notes that the “social contract” may recognize a greater degree of professional autonomy than is recognized by state law.

Similarly, *The Code of Ethics for Nurses with Interpretive Statements* (hereafter referred to as *The Code*) provides additional foundation for why registered nurses must have a means of objecting to patient assignments that are considered to be unsafe. Several provisions (#3, #4, and #6) within *The Code* (ANA, 2001b) speak to the accountability and responsibility of the registered nurse to provide optimum patient care. Provision 3 recognizes the responsibility of the registered nurse to “implement and maintain standards of professional nursing practice (p.13).” Likewise, Provision 4 notes that the registered nurse is “accountable for judgments made and actions taken in the course of nursing practice, irrespective of health care organizations’ policies or providers’ directives” (p. 16).

Specific to nurse administrators, Provision 6 of *The Code* (ANA, 2001b) states that “acquiescing and accepting unsafe or inappropriate practices, even if the individual does not participate in the specific practice, is equivalent to condoning unsafe practice” (p. 21). Provision 6 goes on to advise registered nurses that they “should not remain employed in facilities that routinely violate patient rights or require nurses to severely and repeatedly compromise standards of practice or personal morality” (p. 21).

Finally, ANA’s *Bill of Rights for Registered Nurses* (2001a) establishes that:

1. Nurses have the right to practice in a manner that fulfills their obligations to society and to those who receive nursing care.
2. Nurses have the right to practice in environments that allow them to act in accordance with professional standards and legally authorized scopes of practice.

3. Nurses have the right to freely and openly advocate for themselves and their patients, without fear of retribution. (p. 2)

Multiple factors contribute to an unsafe patient assignment. The appropriate skill mix and number of registered nurses engaged in direct patient care is necessary to provide safe nursing care. Clarke (2007) suggests the following:

A focus on staffing “numbers” to the exclusion of other factors is unlikely to improve patient safety and may even be detrimental to it. . . Beyond the basic numbers of personnel present on units and their qualifications, the critical elements of experience and expertise of nurses in caring for particular populations and of team stability are surely important. (p. 35)

Floating is another staffing practice that is of concern to registered nurses and can affect the acceptance of a patient assignment. Floating is used by institutions to meet their obligations to ensure that all patient care areas are adequately staffed. Units temporarily overstaffed either due to low patient census or a lower patient acuity may assign nursing staff to units less well-staffed. Accepting such an assignment can place the nurse in jeopardy of caring for patients for which the nurse is not adequately prepared. Before floating a nurse from one area to another, the nurse-manager must consider the registered nurse’s level of expertise, the patient care delivery system, and particular patient care requirements. When floating staff is necessary, nurses should be assigned to comparable clinical areas.

The nurse’s level of fatigue must be considered especially under conditions of mandatory overtime. In its 2006 position statement, *Assuring Patient Safety: Registered Nurses’ Responsibility in All Roles and Settings to Guard Against Working When Fatigued*, ANA states that “each registered nurse has an ethical responsibility to carefully consider her/his level of fatigue when deciding whether to accept any assignment extending beyond the regularly scheduled work day or week, including a mandatory or voluntary overtime assignment.” A companion position statement,

Assuring Patient Safety: The Employers' Role in Promoting Healthy Nursing Work Hours for Registered Nurses in All Roles and Settings, states that “employers of registered nurses should ensure sufficient system resources to provide the individual registered nurse in all roles and settings with a work schedule that provides for adequate rest and recuperation between scheduled work.” ANA opposes the use of mandatory overtime as a staffing tool. As with the position statement on fatigue, when faced with mandatory overtime individual registered nurses are expected to exercise their critical judgment in determining their ability to provide safe patient care. (ANA, 2001c)

Registered nurses are professionally and ethically obligated to advocate for their patients and themselves by voicing any concerns about patient assignments. Several mechanisms can be used by a registered nurse who judges the assignment to be unsafe and subsequently places patients in possible jeopardy. While consistent with nursing’s ethical mandates, such actions may be perceived as contrary to an employer’s legal rights or contrary to the states assessment of a registered nurse’s duties. The registered nurse can reject the assignment outright. When the nurse chooses this option, a clear understanding is necessary of the legal ramifications.² Thorough documentation of the situation is also necessary to provide some defense should the registered nurse be accused of patient abandonment or disciplined. ANA defines “patient abandonment” as

“a unilateral severance of the **established** nurse-patient relationship without giving reasonable notice to the appropriate person so that arrangements can be made for continuation of nursing care by others. Refusal to accept an assignment (or a nurse-patient relationship) does not constitute patient abandonment” (ANA, 2001c).³

2 Registered nurses should be cognizant of legal risks. In a case where a group of registered nurses (*not* on shift) quit their jobs because of poor working conditions, and were cleared by the board of registered nursing of charges pertaining to patient abandonment, they still faced a criminal prosecution for patient endangerment. The impropriety of such a prosecution is unquestionable, but was a reality for the nurses involved.

3 State law definitions may differ in some respects from the profession’s definition.

Patient assignment objection forms, such as Assignment Despite Objections (ADO), Objection to Assignment, or Protest of Assignment, provide an additional mechanism for accepting a patient assignment while expressing – in writing – objection and concern about the safety of that assignment. There are multiple reasons why a registered nurse may file such a complaint at any time during the shift including, but not limited to:

- lack of sufficient orientation
- inadequate staffing for patient acuity
- inappropriate skill mix
- mandatory overtime
- assignment poses a serious threat to the health and safety of the staff
- assignment poses a serious threat to the health and safety of the patient
- new patients were transferred or admitted to the unit without adequate staff
- lack of unit resources such as patient care equipment or supplies, appropriate patient handling and movement equipment, technology or technology-support, or other disruptions in the care environment (construction, etc.)

Basic information is needed to adequately document a concern. Due to privacy concerns and with consideration to the Health Insurance Portability and Accountability Act (HIPAA) regulations, inclusion of specific patient information should – to the greatest extent possible - be limited. A patient assignment objection form may be available from the employer, the union, and/or the state nurses association. At a minimum, the following information is necessary for documentation (Washington State Nurses Association, 2002, p. 13):

- 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
- the action taken by the nurse

Once the patient assignment objection form is completed it should be given to the unit manager or designee (e.g., shift supervisor). A copy should also be sent to the labor

representative if the nurse completing it is represented under a collective bargaining contract. It may also be appropriate to send a copy to the state nurses association and/or retain for personal files. However, one must be mindful of any specific patient information that might be considered a violation of HIPAA should that information leave the facility.

One example of how a state has addressed this complex issue can be found in the Texas Administrative Code which includes a *Safe Harbor Peer Review for Nurses* (22 Texas Administrative Code §217.20). Any employer with ten or more nurses must permit a nurse who acted in “good faith” can “request Peer Review when requested to engage in conduct that the nurse believes is in violation of his/her duty to a patient.” In order to initiate this process, the registered nurse must complete a form and provide it to the nurse supervisor or administrator who made the assignment. ANA’s Constituent Member Associations can assist nurses by establishing protest of assignment models that guide nurses in how to express objections to unsafe patient assignments in all practice settings.

Employers can also assist nurses by developing a mechanism through which concerns about patient assignments can be raised and establish an environment that is free from both overt and covert retaliation when such concerns are expressed. This is an essential element for developing a culture of patient safety within healthcare facilities.

Whistleblower laws may also afford some protection to registered nurses who speak out against unsafe patient assignments. Such laws are typically designed to prevent employers from retaliating against an employee. Retaliation could include suspension, demotion, harassment or discharge for reporting improper patient care or business practices. As of 2007, 18 states have enacted varying levels of whistleblower protections for healthcare employees (ANA, 2007). Registered nurses need to know if such laws exist in their state and the extent to which protection is afforded them.

Finally, the potential legal ramifications of any action must be understood. Once a registered nurse has accepted an assignment then it is very difficult to reject that

assignment. If after accepting the assignment, the registered nurse then rejects the assignment the nurse is at risk for an allegation of patient abandonment. Patient abandonment can lead to a variety of penalties up to and including termination of employment and potential action against the nurse's license by the state board of nursing. There can be legal risk to rejecting an assignment prior to acceptance of it, as well. A registered nurse can face a claim of insubordination or job abandonment, among others, and she or he may face other legal claims, such as the charge of criminal abandonment as noted above. Registered nurses have the responsibility and challenge of balancing what may seem to be contradictory standards, but from a professional standpoint, the registered nurse must remain grounded and faithful to the Code of Ethics for Nurses in working to achieve the right balance.

Filing a patient assignment objection form may also result in disciplinary action or dismissal by the employer. Whether a nurse is an "at will" employee, (i.e. one who is not working under a union contract or collective bargaining agreement) or whether the nurse is working under a collective bargaining agreement there will be potentially different outcomes. Registered nurses working under a union contract will likely have a dispute settlement or grievance procedure within the contract that provides a process for protesting any disciplinary action or termination for objecting to an unsafe patient assignment. Nurses not working under a union contract may need to pursue action through established employer mechanisms (e.g., grievance procedures, peer review) and/or consider seeking legal advice. In all cases, extensive documentation of the situation is absolutely critical to defending one's actions.

Recommendations: In support of this position statement, ANA recommends the following actions:

Practicing Registered Nurse

1. Advocate for the patient and self by ensuring that nurse knowledge and competencies match the patient's identified needs to allow for delivery of safe care.

2. Engage in life-long learning to maintain on-going competency in the standards of care and scope and standards of practice required for the patient population the nurse routinely cares for.
3. Maintain self-awareness to identify unsafe limitations related to competence, fatigue, stress, and/or overworked situations.
4. Participate in the development, monitoring, and/or evaluation of organizational staffing policies, staffing plans, and technologies to support the delivery of safe nursing care.
5. Assess the needs of patients based on a holistic approach.
6. Delegate appropriately to other licensed nurses and nursing assistive personnel.
7. Improve utilization of the entire health care team to enhance the efficiency and effectiveness of nursing care delivery.
8. Know the process within the healthcare facility to file a concern about staffing assignments. If no such process exists, consider utilizing a patient assignment objection form. Once completed the form should be given to the unit manager or designee (e.g., shift supervisor) If applicable, additional copies may be sent to the state nurses association, the collective bargaining agent, and/or retained by the nurse.
9. Understand the legal implications of filing a patient assignment objection form and engaging in other means of objecting to a patient assignment.
10. Encourage employer and consumer awareness of ANA's *Principles of Safe Staffing* and state and national legislative efforts on achieving safe staffing in healthcare facilities.

Employer/Health Care Agency

1. Establish an environment that is free from both overt and covert retaliation when a nurse questions the appropriateness of staffing assignments.
2. Establish a defined mechanism for a nurse to refuse an assignment when the patient assignment does not match the nurse's knowledge and competencies and educate staff on this process.

3. Develop and maintain a mechanism for nurses and/or their designated representative(s) and nursing management to review and evaluate the staffing plan of the organization on a routinely scheduled basis using ANA's *Principles of Safe Staffing*.
4. Provide a mechanism through which concerns about patient assignments can be raised.
5. Review and evaluate individual staffing and patient assignment situations cited by nurses.
6. Adopt a practice model that addresses the necessity to match patient needs with nurse competencies.
7. Establish contingency plans/resources for unexpected periods of increased activity and/or increased acuity.
8. Review and evaluate errors and near misses in relation to staffing variables present at the time of the event.
9. Work in partnership with your nurses and/or their designated representatives.
10. Foster new technologies to enhance the efficiency and effectiveness of nursing care delivery.

Patient and Consumer

1. Inquire about the ratio of nursing staff to patients on a patient care unit on each shift and the availability of nursing assistive personnel.
2. Ask about qualifications and experience of the registered nurse and other members of the health care team providing care.
3. Seek information about nursing's activities to achieve safe staffing through such activities as state and national legislative efforts, collective bargaining contracts, and publication of position statements, such as ANA's *Principles of Safe Staffing*.
4. Commit to achieving a national health care system that ensures public accountability for the safety of patients and all caregivers.

National and/or State Policy Agenda

1. Promote legislation and other regulatory measures designed to provide whistleblower protection for registered nurses who raise the issue of unsafe patient assignments.
2. Advocate for state and federal legislation and regulation that provides for the collection and public dissemination of patient safety data impacted by staffing variables.
3. Require the publication of staffing levels of registered nurses, other licensed nurses and nursing assistive personnel available for the delivery of nursing care.

Nursing Education

1. Provide education to registered nurses related to variables to consider when developing and evaluating staffing plans.
2. Provide education for registered nurses on methodologies by which to match nurse competencies to assessed patient needs.
3. Create professional development programs to educate registered nurses on the use of patient assignment objection forms and other mechanism for protesting an unsafe assignment.

Research

1. Identify patient outcomes related to nurse staffing variables.
2. Identify and test innovative adaptive staffing models.
3. Explore acceptable risk and social responsibility in market driven health care system.

Other

1. ANA's Constituent Member Associations should establish a mechanism to assist nurses' in expressing objections to unsafe patient assignments.

Summary: The American Nurses Association (ANA) believes that registered nurses – based on their professional judgment and ethical responsibilities – have the right to reject, accept, or object in writing to any patient assignment that potentially puts patients or themselves at serious risk for harm. The professional obligations of the registered nurse to safeguard patients are grounded in the *Code of Ethics for Nurses with Interpretive Statements* (ANA, 2001a), *Nursing: Scope and Standards of Practice* (ANA, 2005), and state regulations governing nursing practice.

REFERENCES

- Aiken, L. H., Clarke, S. P., Sloane, D. M., Sochalski, J., & Silber, J. H., (2002). Hospital nurse staffing and patient mortality, nurse burnout, and job dissatisfaction. *Journal of the American Medical Association* 288(16), 1987-1993.
- American Nurses Association. (2006). *Assuring patient safety: Registered nurses' responsibility in all roles and settings to guard against working when fatigued* (Position Statement). Silver Spring, MD: Author.
- American Nurses Association. (2006). *Assuring patient safety: The employers' role in promoting healthy nursing work hours for registered nurses in all roles and settings*. (Position Statement). Silver Spring, MD: Author.
- American Nurses Association. (2001a). *Bill of rights for registered nurses user's guide*. Silver Spring, MD: Author.

- American Nurses Association. (2001b). *Code of ethics for nurses with interpretive statements*. Silver Spring, MD: Author.
- American Nurses Association. (2001c). *Opposition to mandatory overtime* (Position Statement). Silver Spring, MD: Author.
- American Nurses Association. (1984). *House of delegates: Summary of Proceedings, Report C Mechanisms to support nurses' abilities to exercise their right to accept or reject an assignment*. Silver Spring, MD: Author.
- American Nurses Association. (2004). *Nursing: Scope and standards of practice*. Silver Spring, MD: Author.
- American Nurses Association. (2003). *Nursing's social policy statement*. (2nd ed.) Silver Spring, DC: Author.
- American Nurses Association. (1995). *The right to accept or reject an assignment* (Position Statement). Silver Spring, MD: Author.
- American Nurses Association. (2007). *Whistleblower protection*. Retrieved April 7, 2008 from
http://www.nursingworld.org/mainmenucategories/ANAPoliticalPower/State/StateLegislativeAgenda/Whistleblower_1.aspx
- Clarke, S. P. (2007). Nurse staffing in acute care settings: Research perspectives and practice implications. *The Joint Commission Journal on Quality and Patient Safety*. 33(Suppl. 11), 30-44.
- Curtin, L. L. (2003). An integrated analysis of nurse staffing and related variables: Effects on patient outcomes. *Online Journal of Issues in Nursing* Retrieved December 12, 2003, from

<http://www.nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/KeynotesofNote/StaffingandVariablesAnalysis.aspx>

Donabedian, A. (1972). *The nursing audit: Self-regulation in nursing practice*. New York, NY: Appleton-Century-Crofts.

Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, §261-264.

Needleman, J., Buerhaus, P. I., Stewart, M., Zelevinsky, K., & Mattke, S. (2006). Nurse staffing in hospitals: Is there a business case for quality? *Health Affairs*, 25(1), 204-211.

New York Nurses Association. (2005). *Nurses' rights & responsibilities: What to do in unsafe patient care situations*. (Brochure). Latham, NY: Author.

Safe Harbor Peer Review for Nurses, 22 Texas Administrative Code §217.20 (2002). Retrieved April 7, 2008 from [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rl oc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=22&pt=11&ch=217&rl=20](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rl oc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=22&pt=11&ch=217&rl=20)

Sovie, M. D. & Jawad, A. F. (2001). Hospital restructuring and its impact on outcomes. *Journal of Nursing Administration*, 31(12), 588-600.

Washington State Nurses Association. (2002). *Guidelines for the registered nurse in giving, accepting, or rejecting an assignment*. Seattle, WA: Author.

Other Resources:

American Nurses Association. (2008). *Professional role competence* (Position Statement). Silver Spring, MD: Author.

American Nurses Association (1999). *Principles for Nurse Staffing*. Silver Spring, MD:
ANA

American Nurses Association (2005). *Utilization Guide for the ANA Principles for Nurse
Staffing*. Silver Spring, MD: ANA

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