

NURSES' RIGHT TO WHISTLE-BLOW

RULE 1: Labor Laws of New York State, Article 20-C §741

- ✔ Make sure there is a reasonable, good faith belief the assignment given to you constitutes improper quality of patient care;
- ✔ Make sure there is a significant threat to a particular patient;
- ✔ Make sure the assignment violates NYS law/regulations, including the requirement that an RN must have the necessary competence to meet the needs of the patient

RULE 2: Immediately bring your concerns to your supervisor to give them an opportunity to correct the situation. Before you have accepted the patient assignment or have taken report,

- ✔ Notify management, in the presence of a witness, you are being made to violate **Board of Regents Rule 29.1 (b)(9)** by practicing beyond the scope of nursing, or by accepting and/or performing professional responsibilities which you know you are not competent to perform, or by performing care without adequate supervision. **Demand training and supervision.**
- ✔ Notify management, in the presence of a witness, that as a charge nurse, you are being made to violate **Board of Regents Rule 29.1(b)(10)** by delegating responsibilities to a person who you know is not qualified by training, experience, or licensure to perform the care.
- ✔ Notify management, in the presence of a witness, that as an RN, you are being directed to violate **Board of Regents Rule 29,1(b)(10)** by performing responsibilities you have already notified the supervisor you are not competent to perform.

AND

- ✔ Tell your manager that by insisting on the mandate, and in view of the lack of your competency, they are violating **Board of Regents Rule 29.1(b)(10)** and can be subject to discipline by the Board of Nursing.
- ✔ File a POA and notify your union representative. **(See reverse)**

PROTEST OF ASSIGNMENT

A Protest of Assignment is a written document from the nurse to the facility notifying the management team that a situation needs to be “cured” and that, in the event of an untoward patient event, liability will be transferred to the facility and its management team.

File a Protest of Assignment when you don't have:

- ▶ **Adequate staffing to meet the immediate needs of all patients and Resources (material, human, and equipment)**
**10 NYCRR 405.5(a)(1) requires the Director of Nursing to determine the types and numbers of nursing personnel and staff necessary to provide nursing care to all areas of the hospital. Failure to do so is a violation of the Health Code and the Board of Regents Rules 29.1(b)(1) for the willful or grossly negligent failure to comply with substantial provisions of Federal, State or local laws, rules or regulations governing the practice of nursing.* Tell management violations of these rules and regulations are reportable to the Board of Nursing and to Joint Commission for violation of 16) Joint Commission Human Resources HR.01.01.01
- ▶ **Staff development, orientation**
**If a hospital does not provide training or orientation to the unit you are being floated to and does not modify the patient assignment, the nurse is not guilty of patient abandonment as long as the RN provides the care they are competent to perform.* Tell management inappropriate delegation is reportable to the Board of Nursing.
- ▶ **Safe environment**
** A facility must follow all healthcare laws (safe patient handling, no mandatory overtime, protection from violence against nurses, healthy workplace, safe workplace). Failure to follow scientifically accepted infection prevention techniques or to provide protective garb is a violation of the Board of Regents Rules 29.2(13).* Tell management a violation of this rule is reportable to the Board of Nursing.
- ▶ **Updated policies and procedures**
**Workplace rules, policies and practices must conform to NYS Scope of Practice and Standards of Practice Laws and contractual provisions.*
- ▶ **Evaluation of employees: Competent hires / retain only competent practitioners**
** NYCRR 405.5 (b)(2)(ii) requires management to assign an RN to the nursing care of each patient in accordance with the patient's needs and the preparation and competence of such nursing personnel.* Tell management a violation of this regulation is reportable to the Department of Health.