

Virginia Board of Nursing

Patient Abandonment by Care Providers*

For the purposes of this guidance document, care providers* are persons licensed, certified or registered by the Board of Nursing, to include registered nurses, licensed practical nurses, certified nurse aides or registered medication aides.

The Board has received numerous inquiries regarding what constitutes patient abandonment and the imposition of mandatory overtime by employers. These inquiries usually are the result of situations encountered by care providers in relation to their work assignments. Patient abandonment is not defined in the Virginia Nurse Practice Act. For patient abandonment to be a violation of the Nurse Practice Act, it must be determined to “unprofessional conduct” (#2 of § 54.1-3007) or “practicing in a manner contrary to the standards of ethics or in such a manner as to make his practice a danger to the health and welfare of patients or to the public” (#5 of § 54.1-3007). The term abandonment is referred to in the Board regulations as a cause for discipline for nurses in 18 VAC 90-19-230, for certified nurse aides in 18 VAC 90-25-100, and for registered medication aides in 18VAC90-60-120.

Mandatory overtime usually refers to situations when the employer requires the care providers to remain on the job after the end of their scheduled work hours. It has also been imposed to require employees to come in to the workplace on unscheduled work days or hours. This is usually a result of staffing shortages at the facility. Care providers often ask if the employer can actually require them to remain on the job, and what will happen if they refuse to stay or come in to work. It is frequently reported that they have been told if they refuse to work, they will be fired, and reported to the Board for “patient abandonment.”

The term “patient abandonment” should be differentiated from the term “employment abandonment,” which becomes a matter of the employer-employee relationship and not that of the Board of Nursing. It should be noted that from a regulatory perspective, in order for patient abandonment to occur, the care provider must have first accepted the patient assignment and established a provider-patient relationship, then severed that provider-patient relationship without giving reasonable notice to the appropriate person (supervisor, employer) so that arrangements can be made for continuation of care by others. Providing appropriate personnel to care for patients is the responsibility of the employer. Failure of a care provider to work beyond his/her scheduled shift, refusal to accept an assignment, refusal to float to another unit, refusal to report to work, and resigning without notice, are examples of employment issues, and not considered by the Board to constitute patient abandonment.

The nurse manager/supervisor is accountable for assessing the capabilities of personnel in relationship to client needs and delegating or assigning care functions to qualified personnel. The nurse manager/supervisor’s responsibility also includes making judgments about situational factors (e.g., fatigue, lack of sleep, lack of orientation and

training to a particular unit) that would influence the provider's capability to deliver safe, effective care. The nurse manager should be aware that he/she could be subject to disciplinary action by the Board for assigning patient care responsibilities to staff when the manager knows, or should reasonably know, that the assignment may affect the competency of the care provider. Additionally, Joint Commission on Accreditation of Healthcare Organization Standards say that a nurse must be provided an orientation to the unit they are assigned, as well as training and credentialing in the specialized skills of the particular unit.

Care providers are accountable for the care they provide. Before accepting an assignment, it is most important that the provider have the knowledge, skills, and abilities to safely perform the tasks assigned. If a provider arrives for work and determines it would be unsafe to provide the care assigned, the provider should immediately contact the supervisor, explain him/her concerns, and request assistance in planning and providing safe, effective care based upon the available resources in the agency. Such assistance might include additional staff, additional assistance by other individuals for specific activities, prioritizing care or activities and notifying others regarding limitations to be imposed on providing optimal care delivery during the period of understaffing. Regardless of the staffing situation, when a care provider accepts an assignment, he/she will be held to the standard of delivering safe care, protecting patients from harm, monitoring client responses to medical and nursing interventions, communication with other professionals regarding patient status and accurate documentation for care that has been delivered.

To summarize, patient abandonment can only occur after the care provider has come on duty for the shift and accepted his/her assignment. If the care provider leaves the area of assignment during his/her tour of duty prior to the completion of the shift and without adequate notification to the immediate supervisor, it is possible the Board would consider taking disciplinary action. However, when a care provider refuses to remain on duty for an extra shift beyond his/her established schedule, it is not considered patient abandonment should the provider choose to leave at the end of the regular shift, provided he/she has appropriately notified the supervisor and reported off to another provider.

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