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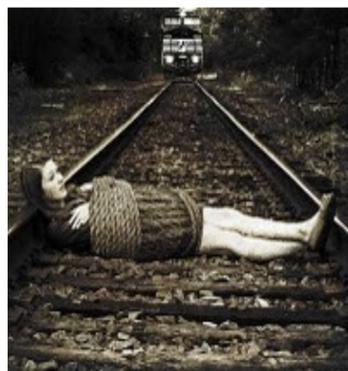
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Feeling Railroaded By HR?

UNOCH won an important Employee Arbitration last week. We represented a member who was unjustly terminated. Not only did the arbitrator rule in the favor of our member, he also made some interesting comments. The Arbitrator found that, while an employee cannot be insubordinate in investigatory interviews, **“some latitude must be allowed for bruised feelings and heated tempers. It is not reasonable to expect accused employees to cheerfully participate in what they may see as a process railroading them to undeserved discipline.”**

The Arbitrator reward for this member is:

1. The Disciplinary letter be REVOKED and EXPUNGED from the Employer's records.
2. The Employee be reinstated to their former position or a substantially equivalent position.
3. The Employer make [the employee] whole for pay, fringe benefits, retirement credits, seniority or any other like or related employment benefits that [the employee] would have received had [the employee] not been discharged.



UNOCH News

UNITED NURSES OF CHILDREN'S HOSPITAL

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Fear of Floating



UNOCH is aware that there is a problem with the new float procedure. We have asked RCHSD to sit down with us and work out the problem. To date RCHSD has refused by telling us that “UNOCH had ample opportunity to propose modification to the list of proposed float areas prior to reaching a tentative agreement at the bargaining table,” and that the procedure is written in “plain English.” (*Tami Denney, HR Manager*).

Well, that may be true, but UNOCH has already heard at least three different interpretations of the Floating Article. We acknowledge that the language needs clarification- “plain English” can be misinterpreted like anything else.

UNOCH has been forced to file a grievance which has been ignored by RCHSD's HR Dept. Twice. What UNOCH would like to have is a conversation with RCHSD to resolve the problem. If that does not happen we will continue to work through the grievance procedure.

The BRN statement on floating has been printed an disbursed throughout the house. Look for a copy on your UNOCH bulletin board.

FROM THE RN CBA:

- **UNOCH CBA Floating Article VIII, Section 801:**
“In accordance with applicable legal requirements and in order to ensure the safest possible care for patients and their families, no Registered Nurse shall be assigned to float to a nursing unit or clinical area without first receiving orientation in that nursing unit or clinical area sufficient to provide competent care.”

This means an orientation to patient care, standards of care, expectations of the unit, and introduction to staff.

- **UNOCH CBA Floating Article VIII, Section 803:**
“If a float assignment is not within the staff member's realm of competency, **it is the responsibility of the nurse who floats to notify the Charge Nurse immediately.** If the issue is not resolved at the Charge Nurse level, the issue will be escalated to leadership for resolution.”

For example: If you are a NICU nurse and you are assigned a 2 year old (“well, he *used* to be in your unit”) and you have no Pediatric experience, that assignment may not be in your realm of competency. Conversely, if you are a PICU nurse and have never taken care of a sick preemie- that assignment may not be within your realm of competency either. And no, NICU nurses are not expected to take care of an 18 year old.

Also- PICU Cardiac nurses and NICU Cardiac nurses are not necessarily interchangeable.

HIPAA Connecting the Dots

UNOCH has recently been contacted – more than once – by members who have been asked by Occupational Health to provide the name of their personal physician, psychiatrist, psychologist, surgeon, and other healthcare providers. In general, your health information cannot be given to your employer, or used or shared for any other purposes unless you give your permission by signing an **authorization form**. This authorization form must tell you who will get your information and what your information will be used for.

The **Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule** does not prevent your supervisor, human resources worker or others from asking you for a doctor's note or other information about your health if your employer needs the information to administer sick leave, workers' compensation, wellness programs, or health insurance.

- However, if your employer asks your health care provider directly for information about you, (you do not have to provide it) your provider cannot disclose the information in response without your authorization.
- Covered health care providers must have your authorization to disclose this information to your employer, unless other laws require them to disclose it.
- Generally, the Privacy Rule applies to disclosures made by your health care provider, not to the questions of your employer.

There is no problem with employers, workers' compensation insurance carriers, physicians, and other participants in the workers' compensation system sharing protected health information with each other in connection with workers' compensation claims and appeals. HIPAA specifically allows exemptions for workers' compensation-related matters.

In the event that you employer requests information from your healthcare practitioner, you should only authorize your healthcare practitioner to do the following:

- Confirmation that you were medically incapacitated for a specified period of time;
- State the anticipated date that you will be medically cleared to return to work;
- That you are fit for duty and able to perform the essential functions of your position; or
- That you have restrictions on your ability to perform certain tasks (such as lifting over 30 lbs., number of hours worked, etc.).

In the event that your employer reasonably believes, based on objective criteria, that you may not be fit for duty, either medically or psychologically, your employer has a right to require a Fitness for Duty examination. The Fitness for duty can come from YOUR PERSONAL PHYSICIAN as well as the health care providers in Occ. Health. If you are sent to Occupational Health by your supervisor for a fitness for duty exam, there are several things that need to take place first.

1. Your Supervisor has to have a **documented reason** that you may NOT be fit for duty. This means an **objective and documented incidence** -this does not include rumors or speculation, or at the request or in-sistence of Human Resources.
2. You should also schedule a fit for duty exam with your **personal physician.**
3. Be sure your physician includes **ONLY information that is pertinent to performing your job.** A letter from your physician should say something like " I have reviewed Ms. Smith's job description, discussed her duties and responsibilities with her, and examined her. Based on my findings Ms. Smith is fit for duty."

Your physician DOES NOT need to and SHOULD NOT disclose your medical history, prior treatments, medications, prescription or OTC.

If you are given a direct order by your supervisor to provide your physician's name, do so. You do not want to be written up for being insubordinate. However, immediately send your physician a **letter** stating that you DO NOT AUTHORIZE your physician or anyone in your physician's office to talk to RCHSD re: your medical information, the release of your information and that if they do it is in fact a HIPAA violation.

IF YOU DO NOT WANT YOUR RECORDS RELEASED, DO NOT GIVE YOUR PHYSICIAN WRITTEN AUTHORITY TO DISCLOSE YOUR RECORDS.

ABANDONMENT OF PATIENTS

Have you ever been told that if you do not accept a float assignment you are abandoning your patient? Not True. And also not very safe.

The following is the BRN statement on patient abandonment. Remember- you do not have to accept a patient assignment that you are not qualified to take.



ABANDONMENT OF PATIENTS

Inquiries have been received by the Board of Registered Nursing (BRN) regarding which actions by a nurse constitute patient abandonment and thus may lead to discipline against a nurse's license.

Generally for patient abandonment to occur, the nurse must:

- a) Have first **accepted** the patient assignment, thus establishing a nurse-patient relationship, and then
- b) **Severed** that nurse-patient relationship without giving reasonable notice to the appropriate person (e.g., supervisor, patient) so that arrangements can be made for continuation of nursing care by others.

A nurse-patient relationship **generally** begins when responsibility for nursing care of a patient is accepted by the nurse. Failure to notify the employing agency that the nurse will not appear to work an assigned shift is not considered patient abandonment by the BRN, **nor is refusal to accept an assignment considered patient abandonment.** Once the nurse has accepted responsibility for nursing care of a patient, severing of the nurse patient relationship without reasonable notice may lead to discipline of a nurse's license.

RNs must exercise critical judgment regarding their individual ability to provide safe patient care when declining or accepting requests to work overtime. A fatigued and/or sleep deprived RN may have a diminished ability to provide safe, effective patient care. **Refusal to work additional hours or shifts would not be considered patient abandonment by the BRN.**

The RN who follows the above BRN advisory statement will not be considered to have abandoned the patient for purposes of Board disciplinary action. However, it should be noted that the BRN has no jurisdiction over employment and contract issues.

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