



## Technical Bulletin Division of Public and Behavioral Health



**Date:** September 12, 2014  
**Topic:** Refusal or Objection to Work Assignments in Division of Public and Behavioral Health Licensed Health Care Facilities by Licensed Nurses (registered nurses and licensed practical nurses) and Certified Nursing Assistants  
**Contact:** Leticia Metherell, RN, HFIM  
**To:** Licensed Division of Public and Behavioral Health Medical and Health Care Facilities which are located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds

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Tracey Green, MD  
Chief Medical Officer

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Richard Whitley, MS  
Administrator

The purpose of this technical bulletin is to outline the requirements a health facility needs to put in place in order for licensed nurses or certified nursing assistants to be able to refuse or object to work assignments.

A health care facility must adopt and disseminate to each licensed nurse and certified nursing assistant employed by the health care facility a written policy that sets forth the circumstances under which a licensed nurse or certified nursing assistant may refuse or object to a work assignment (NRS 449.2423).

***Does this technical bulletin apply to all licensed health care facilities?***

**No**, this technical bulletin **only applies** to health care facilities licensed by the Division of Public and Behavioral Health which are located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds.

## **REFUSAL OF WORK ASSIGNMENT**

### ***What must a written policy for the purpose of a refusing work assignment in accordance with NRS 449.2423 include?***

For the purposes of refusing a work assignment the written policy concerning work assignments must contain reasonable requirements:

- For prior notice to the supervisor of the licensed nurse or certified nursing assistant of the request by the licensed nurse or certified nursing assistant to be relieved of the work assignment, including, without limitation, the reasons supporting the request;
- Which provide, if feasible, an opportunity for the supervisor to review a request by the licensed nurse or certified nursing assistant to be relieved of the work assignment, including any specific conditions supporting the request, and based upon that review:
  - Relieve the licensed nurse or certified nursing assistant of the work assignment as requested or deny the request; and
- A process pursuant to which a licensed nurse or certified nursing assistant may exercise his or her right to refuse a work assignment if the supervisor does not approve the request to be relieved of the work assignment if:
  - The supervisor failed to approve the request without proposing a remedy or, if a remedy is proposed, the proposed remedy would be inadequate or untimely;
  - The process for filing a complaint with the Division or any other appropriate regulatory entity, including any investigation that would be required, would be untimely to address the concerns of the licensed nurse or certified nursing assistant in refusing a work assignment; and
  - The licensed nurse or certified nursing assistant in good faith believes that the work assignment meets the conditions established in the written policy justifying refusal.

The written policy adopted pursuant to NRS 449.2423 concerning work assignments adopted by the health care facility must, at a minimum, allow a licensed nurse or certified nursing assistant to refuse a work assignment for any reason for refusal set forth in paragraph (b) of subsection 1 of NRS 449.205 which would include allowing a licensed nurse or certified nursing assistant to refuse a work assignment if he or she:

- Reports to his or her immediate supervisor, in writing, that he or she does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and

- Refuses to provide to a patient nursing services for which, as verified by documentation in his or her personnel file he or she does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless the refusal constitutes unprofessional conduct as set forth in the statutes or regulations governing Nursing, Chapter 632; or
- In accordance with a policy adopted pursuant to [NRS 449.2423](#), requests to be relieved of, refuses or objects to a work assignment; or
- Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse, nursing assistant or medication aide - certified to protect patients from actual or potential harm, conduct which would violate any provision of [chapter 632](#) of NRS or conduct which would subject the registered nurse, licensed practical nurse, nursing assistant or medication aide - certified to disciplinary action by the State Board of Nursing.

### ***OBJECTION TO WORK ASSIGNMENT***

The written policy concerning work assignments must, at a minimum, allow a licensed nurse or certified nursing assistant to file an objection to a work assignment if the work assignment violates any provisions related to the establishment of a staffing committee (NRS 449.242), the facility's documented staffing plan (NRS 449.2421) or the written policy to allow a nurse or certified nursing assistant to refuse or object to work assignments (NRS 449.2423).

### ***What must a written policy for the purpose of objecting to a work assignment in accordance with NRS 449.2423 include?***

For the purposes of objecting to a work assignment the written policy concerning work assignments must contain:

- A process for a licensed nurse or certified nursing assistant to file an objection with the health care facility, but still accept the work assignment despite the objection; and
- A requirement that the health care facility respond to the objection as soon as practicable, but not later than 45 days after receiving the objection.

### ***HEALTH CARE FACILITY DUTIES AS IT RELATES TO REFUSAL OR OBJECTION TO A WORK ASSIGNMENT***

The health care facility shall:

- Maintain records for at least 2 years of each request to be relieved of a work assignment, each refusal of a work assignment and each objection to a work

assignment that is filed with the health care facility pursuant to the written policy adopted pursuant to this section;

- If the health care facility has established a staffing committee pursuant to NRS 449.242, provide to the staffing committee:
  - The number of requests to be relieved of a work assignment and refusals of a work assignment made by a licensed nurse or a certified nursing assistant at the health care facility pursuant to this section;
  - The number of objections to a work assignment filed by a licensed nurse or a certified nursing assistant at the health care facility pursuant to this section; and
  - An explanation of how the health care facility addressed the requests, refusals and objections; and
  - Ensure that the health care facility complies with the written policy adopted pursuant to this section.

#### ***RETALIATION OR DISCRIMINATION AGAINST EMPLOYEES***

In accordance with NRS 449.205 (1) (b) (1) (2) (3) (4):

1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(b) A registered nurse, licensed practical nurse, nursing assistant or medication aide - certified who is employed by or contracts to provide nursing services for the medical facility and who:

(1) In accordance with the policy, if any, established by the medical facility:

(I) Reports to his or her immediate supervisor, in writing, that he or she does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and

(II) Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse, nursing assistant or medication aide - certified concerning his or her competence to provide various nursing services, he or she does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless the refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto;

(2) In accordance with a policy adopted pursuant to NRS 449.2423, requests to be relieved of, refuses or objects to a work assignment;

(3) In good faith, reports to the medical facility, the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse, nursing assistant or medication aide - certified which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the medical facility or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the medical facility, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(4) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse, nursing assistant or medication aide - certified to protect patients from actual or potential harm, conduct which would violate any provision of chapter 632 of NRS or conduct which would subject the registered nurse, licensed practical nurse, nursing assistant or medication aide - certified to disciplinary action by the State Board of Nursing.

***Can a medical facility prohibit a licensed nurse or certified nursing assistant from refusing or objecting to a work assignment or reporting concerns as outlined in this technical bulletin in its written policy?***

No, a medical facility shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse, nursing assistant or medication aide - certified who is employed by or contracts to provide nursing services for the medical facility to take an action described in this technical bulletin.

**QUESTIONS**

For any questions regarding this technical bulletin you may email Leticia Metherell at [lmetherell@health.nv.gov](mailto:lmetherell@health.nv.gov) or by calling 775-684-1045.