

ONA BULLETIN FOR Markham-Stouffville Hospital

November, 2006

No. 2

Your concern:

▶ *I have been told that ONA protects lazy RNs and those who are not competent to practise. Is this true?*

What ONA can do:

All members have the right to grieve any discipline if they so choose. If you are disciplined because of incompetence and/or professional misconduct, ONA will assist you by filing a grievance on your behalf and/or representing you in any proceedings before the College of Nurses of Ontario (CNO) through the Legal Expense Assistance Plan (LEAP). Employers are obligated to report all cases of termination to the CNO. The filing of a grievance does not mean you have automatic protection from ONA. In such cases, all RNs are obligated to demonstrate their competency, when requested by the CNO, through its Quality Assurance program. If the RN cannot demonstrate to ONA that she/he can work within the *Standard of Practice*, we are limited in our ability to represent the individual at arbitration.

ONA and the Windsor Regional Hospital

The grievor was a full-time nurse working in the hospital's emergency department. On the night in question, the grievor was observed (on security video) exiting the emergency department on numerous occasions to take short breaks. The employer alleged that he abandoned his post as triage nurse during these periods as he allegedly left the "triage area" without advising his charge nurse and obtaining adequate coverage.

At the hearing, the employer also read considerable evidence regarding other allegations against the grievor, which were never raised at the time of his termination. These allegations included: references to the grievor's charting, which was below hospital and CNO standards, and references to the grievor failing to complete certain mandatory reads/medical directives expected of nurses in the department.

The Arbitrator ruled there was insufficient evidence to suggest that the grievor's absences from the emergency department constituted a breach of hospital policy or a clear abandonment of his post. Nevertheless, the Arbitrator concluded that the number of times the grievor's went absent from the department was cause for some disciplinary response.

In regard to the other allegations raised against the grievor, the Arbitrator ruled the employer did not rely on these allegations at the time of termination. The Arbitrator ruled that the allegations themselves were not made out in that the grievor documentation standards and his alleged failure to complete mandatory reads/medical directives was no different from other nurses on the unit who made the same errors and failed to complete the same reads/directives without any disciplinary penalty.

The grievor was reinstated with an eight-week suspension substituted for the discharge.

Your concern:

► *I am very concerned about job security. My unit is closed, and I am told I must use vacation time or I am re-assigned to other units. I do not wish to use my vacation for that purpose or be re-assigned. Is there anything I can do about this?*

What ONA can do:

In unionized hospitals, RNs are not forced to use their vacation when there is not enough work on a unit. Re-assignment is only allowed for a single or partial shift and not on a routine or consistent basis.

ONA has been successful in a number of cases taken through the arbitration process in which employers have been denied the ability to reassign RNs to units. Rather, RNs have been allowed to maintain their hours, take the layoff or retrain to work on other units.

ONA and the Windsor Regional Hospital

In December 2001, the hospital temporarily closed the Burn Unit for 10 days and reassigned the Burn Unit nurses to other units during the Christmas holidays. Nurses that were not reassigned took lieu days, vacation days and Leave of Absence days. Those nurses who did come to work from December 15 to December 26 were reassigned to another unit on a day-to-day shift-by-shift basis. ONA claimed the reassignment of nurses for more than a single or partial shift is a layoff.

OUTCOME: WIN

The Arbitrator ruled that a reassignment of a nurse for more than a partial or single shift for reason of lack of work is a layoff, which entitles nurses to options under the collective agreement, including: accepting the layoff, opting to retire under the terms of the hospital's pension plan (including the provision of an early retirement allowance), transferring to a vacant position provided she/he is qualified to perform the available work, or maintaining her/his hours in the Bargaining Unit by displacing the least senior registered nurse whose work she/he is qualified to perform.

To find out more about ONA

For information on our services and programs and how we can provide you with the tools you need to achieve a more satisfying work experience and better terms and conditions of employment, please feel free to contact one of our Retention and Recruitment Labour Relations Officers. We can also help you develop positive working relationships with your employer, and provide you with the support you need to ensure safe, quality care for your patients. All communications are confidential.

STACEY PAPERICK
Phone: 1-800-387-5580, dial "0" and ext. 2282
Fax: (416) 964-8864
E-mail: stacyp@ona.org

THE ONTARIO NURSES' ASSOCIATION (ONA) IS THE UNION REPRESENTING 52,500 REGISTERED NURSES (RNs) AND ALLIED HEALTH PROFESSIONALS WORKING IN HOSPITALS, LONG-TERM CARE FACILITIES, COMMUNITY AGENCIES, INDUSTRY AND OTHER SETTINGS ACROSS ONTARIO.

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