



From the Virginia Nurses Association publication:
Workplace Advocacy Guide for Nurses

Reporting Unsafe Conditions and Whistleblowing

Healthcare personnel and organizations have a duty to provide quality patient care in a safe environment. Facilities have policies and procedures in place to accomplish this. When problems arise, they should be first addressed in a cooperative manner through the facility's procedures for problem reporting and resolution. If these procedures have been exhaustively followed, and the problem of unsafe, unethical or substandard conditions persist, the nurse may consider reporting these issues outside the organization (whistleblowing), both to protect the patient as well as his/her license. This may sometimes result in serious adverse consequences to the person who blows the whistle, such as being fired, transferred to a less desirable assignment, becoming involved in a lengthy lawsuit, etc.

1. Code of Virginia with Exemptions – In Virginia the law provides some protection to employees who report problems outside the organization. However, there are numerous exemptions. Nurses must educate themselves as to whether the law's protections apply to them in their specific employment situation, to the type of report and the manner in which it is made. Also, the protection only applies to reports made to the specific legal monitoring authority having jurisdiction over the facility. For example, reporting a problem to a private accrediting agency would not be covered under the law. However, reporting a hospital to the Virginia Department of Health might. Licensed individuals are reported to the state agency overseeing their licensure. Some reports are mandatory – such as reporting child or adult abuse/neglect. See section II D of this Guide.

2. There are several federal laws which offer some protection to whistleblowers. However, again, their provisions are specific to certain types of reports and situations. For example, protections exist for some types of employees who report Medicaid/Medicare fraud; some laws only apply to government employees, etc.

3. Nurses have an obligation to protect the patient and the public when healthcare and safety are affected by the incompetent, unethical or illegal practice of any person. Patient advocacy is a major role for the nurse. However, to do it effectively for the benefit of the patient and with minimal adverse consequences to the nurse, it is essential that nurses rigorously follow the employer's protocols and chain of command to resolve the problems. Should this not work after a reasonable period of time, the nurse might have no option but to report the unsafe condition. However, it is imperative that the nurse research the applicable laws, regulations and procedures BEFORE taking the issue outside the organization. Seeking legal counsel would also be important to do in advance of taking action.

References:

Sloan, Andrea J. "Whistleblowing...The Nurse As An Advocate", Legal Issues Column,



Virginia Nurses Today, Feb/March/April 2002.

Guide to Nurses' Rights: Passport to Protection, ANA Publication, October 1998. Website: <http://www.nursingworld.org> or call 1-800-274-4ANA.

Code of Ethics for Nurses, ANA Publication, available through ANA Center for Ethics and Human Rights website: <http://nursingworld.org/ethics/>

CODE of Virginia 32.1-125.4 and 32.1-138.4 regarding retaliation or discrimination against complainants. Available at the local library or on the Internet: <http://legis.state.va.us>