

July 24, 2009



Dear Northwest Healthcare Charge Nurse:

You may or may not be aware that the Montana Nurses Association (MNA) is attempting to organize Registered Nurses at Northwest Healthcare. You should know that, while we respect the rights our employees have to consider union membership, we have several concerns about the approach the union may be taking to organizing employees at Northwest Healthcare.

Reportedly, union organizers are telling our Charge Nurses that they would be allowed to organize although they may be segregated into a "separate bargaining unit." You should know that this information is incorrect. In the paragraphs below is information from the National Labor Relations Act as it relates to Charge Nurses.

The National Labor Relations Act (NLRA) grants non-supervisory employees the right to consider union membership and ultimately vote to elect a union to represent them in collective bargaining with hospital administration. However, employees who are considered supervisory are not covered by the NLRA and are not allowed to unionize. Under the law, a supervisor is defined as:

*"...any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."<sup>1</sup>*

After an important Supreme Court case in 2001<sup>2</sup>, the National Labor Relations Board (the Federal agency that administers the NLRA) began examining more closely how Charge Nurses "assign," "responsibly direct" and exercise "independent judgment" in the normal course of their work. In 2006, the NLRB published three decisions<sup>3</sup> that set forth new guidelines for determining the supervisory status of Charge Nurses under the NLRA.

First, the NLRB determined that individuals who "assign" other employees are supervisors under the NLRA so long as they are assigning "significant overall duties" rather than specific tasks. Second, the Board determined that employees who "responsibly direct" other employees are also supervisors. And finally, the Board determined that an employee is a supervisor if she/he exercises "independent judgment" in the direction of other staff, specifically when the direction given is not controlled by "a detailed set of instructions."

In many of our departments, Northwest Healthcare Charge Nurses are expected to assign staff nurses to patients according to staff's education, experience, skill level and patient acuity. We have also empowered Charge Nurses to determine the number of staff needed to provide quality patient care on their units and the autonomy to adjust staffing up or down based on unit activity and patient acuity. These same Charge Nurses are accountable for the outcomes on their unit during the shift in which they are *in charge*, and exercise their independent judgment in directing staff.

<sup>1</sup> The National Labor Relations Act, 29 U.S.C. 85 151, 169

<sup>2</sup> Kentucky River Community Care, Inc. v. NLRB, 522 U.S. 706 (2001)

<sup>3</sup> Oakwood Healthcare, 348 NLRB No. 37 (2006), Golden Crest Healthcare Center, 348 NLRB No. 39 (2006), and Croft Metals, Inc. 348 NLRB No. 35 (2006)

Furthermore, over the past several years, (In direct response to the suggestions and input from our staff), we have made the Charge Nurse position in many units a permanent position to allow our Charge Nurses maximum flexibility in exercising supervisory control over their units when they are in charge.

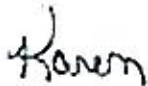
**What does this all mean for Charge Nurses at Northwest Healthcare?**

It means that Charge Nurses in many of our units (for example, Med/Surg, IMC, ICU, ER, and OR to name a few) are supervisors under the law and, as such, would be excluded from participating in unionization and collective bargaining by the NLRB. It is our position that the Charge Nurse role at Northwest Healthcare is, by in large, a supervisory role and part of our leadership team.

If you are a Charge Nurse in any of the key areas mentioned above, as a member of leadership you may not participate in activities such as attending union rallies or encouraging any employees to sign union authorization cards. Doing so could be considered by the NLRB as interfering with employees' rights under the NLRA to either unionize or remain union-free.

We hope you understand our reason for attempting to clarify this issue and our need to ensure that all members of the leadership team are unified in our mission to *improve health, comfort and life*. If you should have any questions about the information contained in this letter or what implications this may have regarding your role as a Charge Nurse, please don't hesitate to contact me (406) 752-1724.

Sincerely,



Karen Lee  
Chief Nursing Office