What if I Object to a Patient Care Situation?

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You have probably been in at least one patient care situation that made you uncomfortable for a particular reason or one in which you did not want to participate. Not knowing what to do about your discomfort, you probably kept quiet and provided the nursing care required of you in the situation.

Afterward, you may have felt distressed and also angry at yourself for not speaking up about your feelings concerning the patient care situation at the time. You may not have any previous information to help guide you in the situation. However, federal laws and in some states, a right of conscience act or statute, may be of some help to you when you face another patient care situation that you object to.

On the federal level, there are a number of health care provider conscience protection laws. Although a thorough discussion of each of them is beyond the scope of this Bulletin, they include Section 245 of the Public Health Service Act, and several amendments to the United States Code (U.S.C.).[1] Basically, these laws provide protection for health care workers who have religious beliefs or a moral objection to performing or assisting in a sterilization or abortion.[2]

A federal employer or a state or local governmental employer receiving federal financial funds cannot discriminate against the health care provider in terms of employment, promotion, termination of the health care worker's position or the extension of staff privileges when such a refusal occurs based on religious beliefs or a moral objection. The Office of Civil Rights, U.S. Department of Health and Human Services enforces the laws.[3]

Like its federal counterpart, state "right of conscience" laws provide protection from discrimination by an employer when an employee refuses to participate in a procedure that is contrary to his or her religious beliefs. These state laws can vary.

In Illinois, for example, both public and private employers are prohibited from discriminating against an employee, including hiring, promotion or terminating employment, whose objection is based on the health care provider's "conscience". Conscience is defined as sincerely held moral convictions "from a belief in and relation to God", but if not so based, arising from a "parallel place to that filled by God among adherents to religious faiths". [4]

Moreover, in Illinois, the act provides protection for an objection to any patient procedure, not just to sterilization or abortion.

Although the laws briefly presented here are controversial and continue to raise issues, from employers, health care providers, and lawyers, and particularly so recently in regard to the Affordable Care Act, you

need to be aware that you may have protection in your workplace if you believe you cannot participate in a patient procedure that violates your religious or moral convictions. So, consider the following:

- Review your state right of conscience act, if one exists;
- If you work in a public facility or one that receives funds from the Federal government, know the applicable laws and your rights under them;
- Review your employer's policy on employees' objections to patient care situations;
- Carefully consider how to handle your objection to both current and future patient care issues;
- Follow the guidelines in your applicable state law, applicable federal laws, and employer policies as to your rights;
- Consider discussing your concerns during the application and hiring process rather than waiting for a situation to arise and then stating your objections for the first time;
- Never abandon a patient who needs your care, particularly in an emergency;
- Do not apply for a position at a hospital that you know regularly performs patient procedures that you object to; and
- Seek an opinion from a nurse attorney or attorney in relation to any moral or religious objections to patient care issues and how best to handle your concerns in order to protect your rights.

FOOTNOTES

1. Enforcement of the Federal Health Care Provider Conscience Protection Laws

(no date given). Available at http://www.hhs.gov/ocr/civilrights/provider_conscience_ppt.pdf . Accessed 4/15/14.

2. Id.

3. The Department of Health and Human Services Office of Civil Rights has a Civil Rights Discrimination Complaint Form Package on its website at www.hhs.gov/ocr/civilrights/complaints/index.html .

4. Health Care Right of Conscience Act , 745 ILCS 73 (e) (1998).

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