FIVE NEWLY TRAINED STEWARDS

Finch, Schliske, Takeo join Copple and Hanson

On Saturday, May 18, five Marion County nurses received ONA Know Your Rights training, which qualifies them to become stewards. Two of our leaders, Barbara Copple and Jessica Hanson, attended as a refresher course. Dana Finch, our membership chair, has sat in on fact-finding meetings and is fully trained. These three leaders are joined by newly-trained stewards Debbie Schliske and Alison Takeo.

Stewards assist other nurses in answering questions about membership and our contract, represent nurses when they are called into potentially disciplinary meetings, and sometimes handle initial grievance intake.

Our five leaders received information on ONA member benefits, our rights as union members, and how to build power. The core of the training focuses on how to assist nurses in a fact-finding meeting or when they may be disciplined.

We are planning to hold another Know Your Rights session in Salem later this summer. If you are interested in receiving this training, please contact our labor representative, Gary Aguiar, by text/cell 503-444-0690 or by email at Aguiar@OregonRN.org.

Nurses who attend this workshop are not obligated to sign up as stewards. Come and get the education and decide later if you want to help your fellow nurses by becoming a steward.

We are seeking a nurse to serve on our executive committee as Vice-Chair. This individual assists the Chair in their duties and absence and also serves on the bargaining team. Since our contract expires June 30, 2020, we would like to have someone in place as we begin planning for that effort.

If you know someone who is interested, please contact our labor representative, Gary Aguiar by text/call him at 503-444-0690 or via email Aguiar@OregonRN.org.
FACT OR FICTION: UNIONS PROTECT LOUSY WORKERS

Our critics regularly claim that “unions protect lousy workers.” Nothing could be farther from the truth. The last thing Marion County nurses want is another nurse who is unsafe in their practice working beside them. An unsafe nurse exposes a client to unnecessary risk.

Further, it makes the job of other nurses more difficult. When we follow or handoff a client, we want to be confident that our colleagues will also provide exemplary care.

Our Association ensures that nurses’ rights are protected, especially from an unfair allegation by a manager or a patient. Our right to have a steward present means that the accused nurse is heard and their words in a fact-finding meeting are recorded accurately.

Most nurses who are called into such meetings adopt a reflective, inquiring posture. They are open to learn about possible errors in their practice and in the overall system. They are willing to assess all aspects of patient care, including their own behavior.

A few nurses resist efforts to recognize gaps in their practice. In the rare cases where the representative suspects a nurse may have erred and does not self-recognize, we sometimes use a double-blind peer review process.

We redact all documents from the case, stripping them of any identifiers. These documents might include the nurse’s own written recitation of the event, the steward’s notes from the fact-finding meeting, and any discipline issued by the employer.

The labor representative will share these documents with nurse leaders in our bargaining unit or another county’s public health department to assess the nurse’s behavior. These assessments will be returned to the nurse being investigated with a general description of each reviewer.

For example, it might describe a reviewer as “Nurse B has worked for 12 years in public health in an ONA-represented bargaining unit. Previously, they were a charge nurse in ICU for five years, served on their PNCC for more than two years, and recently won an award for nurse practice.” Just enough for the nurse to contextualize the reviewer, but not enough to identify them.

The goal of these evaluations is to provide the nurse with an objective evaluation of their actions by several respected peers. Usually, the nurse accepts this collective judgment.

Then, the representative ensures that the employer provides resources for the nurse to improve their practice. Everyone’s goal is to return the nurse to a high performing practice. We have too few RNs in Oregon to lose any. We want nurses to improve their practice rather than being removed from client care. We need every nurse to be high-performers!

In some cases, the steward or labor representative perceives the nurse may not be a good fit with her present position. Then, we may act like a career counselor. We ask what kind of nursing they are interested in. We may point out possibilities in other departments or other—preferably unionized—employers of nurses in our area.

In short, our Association advocates safe client care by developing strong nurse leaders. If we have practice concerns, we ensure the nurse is provided the support and resources to rebuild their practice. Our community deserves high-performing nurses!

We sometimes find that an under-performing nurse is not handled well by the employer. Many managers are not fully-trained to coach and mentor nurses. They may

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not understand how to improve the behavior of subpar workers. These poor managers don’t know how to use the many tools they possess to develop a nurse’s practice! Our stewards often educate managers on how to improve a nurse’s performance.

In other cases, we find a manager unfairly targets a nurse because of a personality conflict or because the nurse is vocal in advocating for their clients or other nurses. Our contract ensures that these rights are protected by the “just cause” provision in our contract. We protect nurses from being disciplined for non-performance issues!

**Just cause** are due process rights accorded to each unionized worker by our contract. They ensure a full and fair investigation of the facts and progressive stages of discipline. These are the “property rights” to our jobs, which only unionized employees possess. All other workers are “at-will” employees, who may be terminated at any time. These at-will employees, including managers, may pursue an unlawful termination lawsuit in certain protected categories, by employing a private attorney. As unionized employees, we have our collective bargaining agreement and other nurses to support us!

### JUST CAUSE

A basic principle in all collective bargaining agreements is that administration must have **just cause** for imposing discipline. Although the definition of **just cause** varies from arbitrator to arbitrator, most agree that one should be able to answer “yes” to these questions if there was **just cause**.

- **Forewarning**: Did administration give the worker forewarning of possible disciplinary consequences of worker’s conduct?
- **Reasonable Rule**: Was administration’s rule or order reasonably related to an orderly, efficient and safe operation?
- **Discovery**: Did administration make an effort to discover what happened before disciplining the worker? Did management investigate before administering the discipline? Who was interviewed? Did these employees bring complaints forward?
- **Fair Investigation**: Was administration’s investigation fair and objective? Were there witnesses?
- **Evidence of Guilt**: Did the investigation produce substantial evidence or proof of guilt?
- **Evenhanded Application**: Did administration apply its rules, orders and penalties evenhandedly and without discrimination?
- **Fair Punishment**: Was the degree of discipline reasonably related to the seriousness of the offense and the record of the worker’s service to the employer?

Both ONA contracts and the laws governing employment in a unionized workplace protect your right to ONA representation. ONA-represented nurses have the right to be represented during any questioning about, or investigation into, their performance or activities as employees. These are known as “Weingarten Rights,” after the federal court ruling that established them, and these rights are only available to workers who are unionized.

A nurse must assert their Weingarten Rights by insisting on having an ONA representative present during an investigation, because an employer is not required to provide a nurse a representative or even notify the nurse of their right to a representative.

**Weingarten Rights Statement**

"I request to have a union representative present on my behalf during this meeting because I believe it may lead to disciplinary action being taken against me. If I am denied my right to have a union representative present, I will attend the meeting, but refuse to answer questions that I believe may lead to discipline. This is my right under a Supreme Court Decision called Weingarten.”
Know Your Weingarten Rights!

What are Your Weingarten Rights?
In the case *National Labor Relations Board vs. J. Weingarten, Inc.*, the Supreme Court ruled an employee who reasonably believes an investigatory interview will result in discipline has the right to have a union representative present. This is a legally protected activity under the National Labor Relations Act (NLRA) and is your fundamental right as part of an ONA bargaining unit.

All nurses in ONA bargaining units have the right to ONA representation during any investigatory interview that could lead to discipline. By invoking your Weingarten Rights, you ensure you have an advocate by your side during difficult conversations. Having an ONA steward or labor representative supporting you gives you a contract expert to advise you during any conversations with management that may lead to discipline.

While we hope you never need to exercise these rights, it’s important that we all know our rights in order to protect ourselves and our coworkers.

You Have a Right to Representation
Every nurse has discussions with supervisors about job performance. When this happens to you, there is an important question to ask your boss, “Could this meeting lead to discipline or affect my personal working conditions?”

If the answer is “Yes,” stop the meeting and invoke your Weingarten Rights by saying: “If this discussion could in any way lead to my discipline or termination, or affect my personal working conditions, I request an association representative, steward or officer be present. Unless I have this representation I respectfully choose not to participate in this discussion.”

How to Use Your Weingarten Rights
Take immediate action when you are called into a meeting or discussion you believe may lead to discipline.

- Ask the supervisor or manager who is present, “Could this meeting lead to discipline or affect my personal working conditions?”
- If the answer is “Yes,” stop the meeting immediately.
- Invoke your Weingarten Rights by saying: “If this discussion could in any way lead to my discipline or termination, or affect my personal working conditions, I request an association representative, steward or officer be present. Unless I have this representation I respectfully choose not to participate in this discussion.”

Need help remembering your Weingarten Rights?
Request an ONA badge backer from your labor representative, Gary Aguiar, at Aguiar@OregonRN.org. ONA badge backers identify you as a registered nurse, fit most lanyards and contain the full Weingarten statement on the reverse side.