Legally speaking... When
AS A NURSE, accepting responsibilities that are beyond the scope of your license or skill level can have serious consequences for you, your patients, and your nursing career. Your state board of nursing can suspend or revoke your license and fine you if you don’t make the right decisions.

Because of understaffing and other pressures, you need to know when (and how) to say no so you can manage your time efficiently, keep patients safe, and protect yourself from burnout and legal repercussions. In this article, I’ll discuss common circumstances that can leave you in legal hot water if you don’t say no—and provide some tips for bowing out gracefully.

Saying no to overtime
Mandatory overtime or any policy that requires you to work excess hours beyond your scheduled shift can lead to a high-stress environment, more errors, and burnout. Fatigued nurses simply can’t provide high-quality, safe patient care. But even though saying no when you’re too tired to accept another shift may be prudent, you may worry that your refusal will lead to a poor evaluation, termination, or even charges of patient abandonment, which could threaten your license. Can you legally say no to mandatory overtime without career-threatening repercussions?

That depends on state law and facility policy. A growing number of states are enacting laws to prohibit mandatory overtime. To check your state’s status, contact your state board of nursing or the Office of the Attorney General in your state. (As of this printing, 15 states have restrictions on the use of mandatory overtime for nurses; 12 states have enacted legislation, and 3 states have provisions in regulations.1)

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Accepting inappropriate responsibilities can have serious legal consequences for you and your career. Learn to identify the situations where saying no is the best policy.

1.8 ANCC CONTACT HOURS
Saying no to a heavy case load
Once you arrive at work and receive your shift report, you’ve accepted the duty to provide safe nursing care for your patients. If you refuse to accept a work assignment after arriving for shift report, you may be charged with abandonment if you walk away without placing your patients safely into the care of another qualified staff member, depending on your state’s laws. Employers can fire nurses who refuse even an unreasonable assignment for insubordination. If you don’t have a written agreement with your employer regarding staffing expectations, you may have to accept the request.

Next time you’re interviewing for a nursing position, request written confirmation of the expectations of your role, including policies on mandatory overtime and typical nurse-to-patient ratios. If the employer won’t give you written confirmation, you may not be able to say no to demands that go beyond what you were told you could expect.

Make sure you receive a written document as evidence of what you were promised when you were hired should you ever have to say no. Keep a copy for your records. If you accept employment without thoroughly investigating the environment and values of the employer, you may not be able to provide safe nursing care.

Saying no to an assignment outside your scope of practice
You should always refuse assignments outside your legal scope of practice as defined by your state’s nurse practice act. If you accept responsibilities that are reserved for other professionals, you may be charged with practicing medicine or pharmacy without a license. Examples of practicing another profession without a license include selecting a medication for a patient that wasn’t ordered by a healthcare provider with prescriptive authority, or dispensing a drug, which is permitted by physicians and pharmacists but not RNs. LPNs must refer to their RN supervisor if the patient’s vital signs indicate the need for an evaluation of the patient’s ordered medications or treatments.

When other members of the healthcare team request your help to perform tasks that are outside your scope of practice, both you and your employer become liable for harm caused to a patient due to this care. Your professional liability insurance may not cover you for penalties resulting from actions beyond your legal scope of practice that harmed a patient.

If you suspect your employer’s policies, procedures, or protocols require you to perform tasks outside your scope of practice, clarify your concern with your nurse manager. Numerous courts have upheld the principle that a facility’s policies and procedures can’t require nurses to perform tasks that are beyond the scope of their licensed responsibilities. If your employer resists your challenge of the policies or procedures, contact your state board of nursing.

Saying no to an assignment beyond your skill level
To be an effective caregiver, you must know your own strengths and limitations. A patient who’s been harmed may sue a nurse for negligence if she was practicing without the skills needed to provide safe nursing care—even if she was performing tasks legally within her scope of practice. For example, suppose a nurse is pulled from the medical-surgical unit to a step-down unit or ICU because of short-staffing. There, she might be expected to monitor cardiac rhythms or care for patients with temporary pacemakers. If she hasn’t been adequately trained or educated for these responsibilities, she should refuse the assignment. A nurse who is floated or transferred must ask the unit manager to give her tasks in the unit that are within her expertise. You should always communicate your skill level and let the assigning nurse know when you’re not current on a specific skill needed and if you feel providing certain care would be unsafe. A supervisor who delegates care to someone she knows can’t safely provide the delegated care becomes vicariously liable for harm caused to the patient.
Never attempt to perform treatments or use equipment without the knowledge required. If you don’t believe you have the skills or knowledge to perform a task you’ve been assigned, ask your nurse manager and hospital administration to provide appropriate staff development or continuing education. When your facility purchases new equipment, participate in the manufacturer’s educational sessions on how to operate it correctly and safely.

How do you know whether you’re truly qualified for a particular responsibility? Evaluate the situation using nursing’s legal standards of care: what any reasonably prudent nurse would do under similar circumstances. A judge or jury will consider your behavior in light of this well-established standard. If you believe you’d have a hard time defending your behavior, now’s the time to say no.

**Saying no when you’re busy with a patient**

Before you agree to help a colleague, consider whether you’d be neglecting your assigned nursing duties while taking on an additional responsibility. For example, suppose a healthcare provider asks you to help with a procedure involving a patient who isn’t assigned to you, at a time when you’re providing time-sensitive care to one of your own patients. Rather than leaving your patient to assist the healthcare provider, a better alternative would be to help him find the nurse assigned to his patient. In an emergency, evaluate if your patient’s care can safely be postponed for the time needed to assist another healthcare team member.

**Saying no to providing your own care strategies**

If you’re knowledgeable about herbal treatments and other alternative therapies, you may be tempted to suggest one of them to a patient. Resist the urge unless you have the healthcare provider’s consent. Otherwise, your colleague may accuse you of interfering with his professional patient relationship. (See The case of Nurse Tuma for a real-life example.) He may also know a reason why the alternative therapy wouldn’t be safe or appropriate for this patient. Collaborative communication between healthcare team members is always safe practice. If you believe an alternative therapy may benefit a patient, communicate that knowledge to the healthcare provider. He may agree that no harm will result from discussing the option with the patient and may agree to introduce an alternative therapy to the patient’s treatment plan. Get written approval from the healthcare provider before discussing alternative options with the patient. Be sure to comply with your employer’s protocols for introducing nontraditional care as an alternative to ordered treatment.

**Saying no to inappropriate delegation**

As an RN, you may delegate nursing responsibilities to another RN, an LPN, or unlicensed assistive personnel (UAP). This puts you in the position of supervising the care you delegated.

To delegate safely and appropriately, you must not only know your colleague’s scope of practice, but also her skill level and limitations. For example, if a UAP says she can’t safely perform a task you’ve asked her to do, even though it’s within a UAP’s normal scope of practice, delegating that task to her would be inappropriate. If you assign a task to a UAP that’s beyond her skill level and she harms a patient, you’d be liable for inappropriate delegation. Because of this, be sure to document the supervision you provide as proof that you met your duty to supervise delegated care. Patient safety and your professional career are at risk if you knowingly assign nursing care to someone who lacks the necessary skills.

**How to say no like a professional**

The positive traits that make nurses team players—a willingness to support colleagues, for one—may make it all the more difficult to say no to anyone who requests assistance. You have to practice saying no assertively. Aggressive behavior or responses aren’t the professional way to say no. A reasonable explanation for saying no that’s assertively explained will be heard and accepted better than a no that’s aggressively or negatively presented.

A recent study involved interviews with 100 successful female leaders who’ve developed their own techniques of saying no. Most said they try to be respectful even as they set limits, and they take the time to explain the reasons why they’re saying no. Others suggested offering helpful suggestions or alternatives when they decide to refuse a request. (For some ideas, see Six tips for saying no assertively.) These women agreed that it’s important to have a clear sense of your own priorities. Weigh the risks—both professional and personal—of accepting or refusing a request.

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**The case of Nurse Tuma**

In 1979, a nurse practicing in Idaho, Jolene Tuma, RN, MSN, was asked by her patient to provide information on an alternative therapy. Ms. Tuma didn’t consult with the patient’s healthcare provider before giving the patient advice. Even though the patient didn’t stop the medical regimen ordered by the healthcare provider, Ms. Tuma was charged with interfering with the physician-patient relationship. The Idaho State Board of Nursing suspended Ms. Tuma’s license to practice nursing for 6 months. If Ms. Tuma had initially approached the patient’s healthcare provider and discussed the patient’s desire to learn more about an alternative therapy, the healthcare provider may have given Ms. Tuma permission to provide information to his patient. The healthcare provider may also have learned of an alternative therapy that could benefit his patient if Ms. Tuma had taken this opportunity to inform the healthcare provider of alternative therapies available.
If you’re asked to work an extra shift and it isn’t an emergency, take the time to consider if saying no is too great a risk to your job security. Tell the person making the request that you’ll think about the request and check your schedule to make sure you don’t have other obligations. It’s important to give your response as soon as possible so your nurse manager can find alternative coverage if necessary. Consider whether your job or promotion might depend on your response. Consider if this request will be a hardship for you, your family, or other important relationships. If saying yes isn’t in your best interest, give your no response clearly. Communicate your no decisively and in a timely manner. Provide suggestions of other ways for meeting the need you’re unable or unwilling to fulfill.

If you’re repeatedly given assignments outside of your job description, determine how to set limits without jeopardizing your career. If the assignments are more appropriately within the scope of your license, you may request help in obtaining the skills you currently lack in order to provide safe care and accomplish your assigned tasks. If the assignments are additional tasks that require time beyond your paid role or shift, request overtime payment. If the assignments are beyond the scope of your license and employment description, say no assertively and notify your facility’s administration either directly or by filing an event report.

**Legally speaking…When can you say no?**

**Six tips for saying no assertively**

1. Listen politely to the request being made. Avoid interrupting and objecting right away.
2. Restate the request if you need clarification.
3. Determine if you need time to verify if you can accept the assignment.
4. If further deliberation results in having to say no, respond quickly to minimize delays for the nurse manager, who has to find someone else.
5. Offer suggestions or alternative solutions when you say no to a request if you have ideas that may be helpful.
6. If your no response isn’t being accepted, repeat it politely and assertively until it’s heard and accepted.

Don’t become angry or defensive, and don’t feel guilty for protecting your own (and your patient’s) needs.

**Say yes to saying no**

It isn’t always easy to say no to requests being made by peers and healthcare team members. The manner in which a refusal is communicated can make a difference in how the message is received. Good team communications as well as excellent team communication are important to establish a foundation of the work environment that allows you to say no.

**REFERENCES**


The author has disclosed that she has no financial relationship related to this article.

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