



A Union of Professionals

AFT Nurses and
Health Professionals 

COVID-19 Resources: PPE and Patient Care

We Have the **Right To Be Safe** At Work
WHAT UNION EMPLOYEES CAN DO IF ASKED
TO CARE FOR A PATIENT WITHOUT APPROPRIATE PPE

APRIL 21, 2020

Step 1

IF YOU BELIEVE THAT YOU HAVE NOT BEEN PROVIDED WITH APPROPRIATE PPE, REQUEST IT.

Make your case. **If time permits, make your case in writing.** There is growing evidence that the virus that causes COVID-19 is aerosolized over short distances and persists for long periods of time. Evidence to make your case can be found here. (go.aft.org/aerolization).

Step 2

AMPLIFY YOUR ELEVATED CONCERN ABOUT THE NEED FOR APPROPRIATE PPE, IF YOU DO NOT GET WHAT YOU NEED. EVEN BETTER: MOBILIZE YOUR CO-WORKERS TO

CONFRONT YOUR SUPERVISOR TOGETHER FOR ADEQUATE PPE.

If you do not get appropriate PPE at step 1, ask to speak to a supervisor and have a union representative and/or your co-workers present. If you believe that you are being asked to do something unsafe, refer your manager to safety guidelines and explain why you think it is unsafe. State that you are at risk without appropriate PPE.¹ Find out if your hospital has a policy regarding when a care provider can refuse to treat a patient, and invoke any such reasons that apply. Follow the policy. **If time permits, make your case in writing or follow up in writing. State that you will take the assignment with appropriate PPE** or ask to be assigned different work. Negotiate. Try to offer a solution. If your facility has a procedure for handling such concerns, utilize it. Ensure that your concerns are reasonable and well-founded.

Find these resources and more at www.aft.org/coronavirus

The **American Federation of Teachers** is a union of 1.7 million professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

Randi Weingarten
PRESIDENT

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IF YOU STILL DO NOT GET THE PPE THAT YOU NEED, YOU HAVE TWO CHOICES.

Step 3 (A or B)

CHOICE A: WORK NOW, GRIEVE LATER.

It is a general principle of labor relations to **work now and grieve later**. This means that you do as requested by your supervisor and take the assignment with the PPE that you are given, and later work with a union representative on next steps. File a facility incident report and our union's Assignment Despite Objection form (if you have one).

OR

CHOICE B: TELL THE EMPLOYER (IDEALLY WITH YOUR UNION REP OR CO-WORKERS) THAT YOU WILL ACCEPT THE ASSIGNMENT WHEN YOU HAVE THE APPROPRIATE PPE.

You should not refuse a direct request without good reason. If you do, you may be deemed "insubordinate" by your supervisor and subjected to discipline or discharge. If that happens, you should work with a union representative on next steps and may challenge the employer's discipline. Work with your union to ensure that you have the strongest case possible to contest the employer's action. File a facility incident report and our union's Assignment Despite Objection form (if you have one).

Note: Refusal of a patient assignment may subject you to a complaint to your state licensing board, and may result in suspension or revocation of your license. Do not leave the facility, withdrawing from the assignment, unless ordered to leave. Favorable resolution of a dispute with the employer does not guarantee a similar result with a state board.

Step 4

WHETHER YOU CHOOSE TO WORK AND GRIEVE, OR TO DECLINE THE ASSIGNMENT, CONSIDER FILING A COMPLAINT WITH THE U.S. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION** OR YOUR STATE OSHA. EVEN BETTER: COORDINATE WITH THE UNION AND FILE A COLLECTIVE COMPLAINT.

bit.ly/File-Complaint

Workers may have the right to refuse unsafe assignments (**bit.ly/Right-To-Refuse**) under the Occupational Safety and Health Act.²

Your right to refuse to do a task is protected if **all** of the following conditions are met:

- Where possible, you have asked the employer to eliminate the danger, and the employer has failed to do so;
- Your refusal to work was in "good faith." This means that you must genuinely believe that an imminent danger exists;
- A reasonable person would agree that there is a real danger of death or serious injury; and
- There isn't enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as requesting an OSHA inspection.

You should take the following steps:

- Ask your employer to correct the hazard or assign other work.
- Tell your employer that you won't perform the work unless and until the hazard is corrected.
- Remain at the work site until ordered to leave by your employer.

According to OSHA, it is illegal to retaliate against workers because they report unsafe and unhealthful working conditions during the coronavirus pandemic. Acts of retaliation can include termination, demotion, denial of overtime or promotion, or reduction in pay or hours.

Step 5:

CONSIDER FILING A COMPLAINT WITH THE NATIONAL LABOR RELATIONS BOARD IF YOU WORK FOR A NONGOVERNMENTAL FACILITY. EVEN BETTER: COORDINATE WITH OUR UNION AND FILE A COLLECTIVE COMPLAINT.**

If you work in the private sector and you or your co-workers experience retaliation for speaking up, you might be protected by federal law.

The NLRB prohibits retaliation against workers in the private sector who raise collective concerns regarding workplace health and safety with managers, the public and public health officials.

Public employees may also consider filing a complaint with their state labor board.

**** Workers who are licensed (such as nurses) should be aware that licensing boards are not regulated by OSHA or the NLRB.**

ANA CODE OF ETHICS

Provision 6: The nurse, through individual and collective effort, establishes, maintains and improves the ethics environment of the work setting and conditions of employment that are conducive to safe, quality healthcare.

6.3 "Unsafe or inappropriate activities or practices must not be condoned or allowed to persist."

ENDNOTES

www.osha.gov/contactus/bystate