

APPENDIX I -- PART 4

DECLARATORY STATEMENTS OF THE BOARD OF NURSING

NUMBERS 34 TO END

[NOTE: DELETED MATERIAL IS NOTED BY AN ELLIPSES (* * *)]

NO. 34

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE:

Petition for Declaratory
Statement of:
DIANE DAVIS, R.N.

FINAL CASE NO. BON-DS-95-02
FILED DATED: 12-15-1995

FINAL ORDER

THIS MATTER came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on October 4 and 6, 1995, in St. Petersburg, Florida, and on December 8, 1995, in Orlando, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Diane Davis. The Petitioner did not appear.

The matter had been evaluated by the Nursing Practice Committee at its October 4, 1995 meeting, and the full Board on October 6, and December 8, 1995. Having considered the petition and supporting documentation supplied by Petitioner, the Board makes the following findings and conclusions:

FINDINGS OF FACT

1. Diane Davis, R.N., is a registered nurse in the State of Florida. She is the nursing supervisor in the post anesthesia care unit/ambulatory care of North Bay Medical Center.
2. Petitioner asks whether it is within the scope of practice for registered nurses to give Sodium Pentothal IV push under the direct supervision of an anesthesiologist for pain management.
3. Petitioner indicates the procedures will be done in a small recovery room which has emergency supplies and medication readily available for airway management. The nurses in the unit have recovery room and/or ICU experience, are ACLS certified, and have experience managing airways. Petitioner has submitted a two-page policy and procedure for administration of Sodium Pentothal IV by the RN and a proposed educational outline. Additionally, she supplied articles from professional journals on the use of sodium pentothal as an anesthetic agent.
4. Sodium pentothal is used in anesthesia, but not as an analgesic agent.
5. The Board is aware that some substances, which in high dose may serve as anesthetics, in low dose may serve in an analgesia capacity for pain management. The Board is not aware that the prevailing practice in this

state or other states is to use sodium pentothal as an analgesia. The information available to the Board is quite the contrary. It is an anesthetic agent.

6. Section 464.003(3)(a), Florida Statutes, in pertinent part provides:

(3)(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include but not be limited to:

..........*

The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

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CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes and Chapter 28-4, Florida Administrative Code.

2. The Petition filed by Ms. Davis is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code. Petitioner has the requisite interest to maintain this proceeding.

3. It is the opinion of the Board of Nursing that registered nurses may not give Sodium Pentothal IV push for pain management.

4. Petitioner may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Board, and by filing a fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date this Order is filed.

DONE and ORDERED this 8th day of December, 1995.

BOARD OF NURSING

NANCY BREEN, R.N.
Chairman

CERTIFICATE OF SERVICE

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NANCY BREEN, R.N.

NO. 35

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE:

Petition for Declaratory
Statement of:
GORDON D. MCCLURE, JR., RN, BSN

FINAL ORDER NO. DOH-00-2328-DS-MQA
FILED DATE: 12-13-2000

FINAL ORDER

GORDON D. MCCLURE, JR., RN, BSN, petitioned for a declaratory statement asking if the substitution of generic medications pursuant to protocol developed by the facility Pharmacy, Therapeutics and Nutrition Committee is within the scope of practice defined in §464.003(3)(a), Florida Statutes. Performing functions outside the scope of practice therein defined is a violation of §464.018(1)(h) and §455.624(1)(o), Florida Statutes. This matter came before the Board of Nursing at its duly-noticed public meeting held on October 12, 2000 in Ft. Lauderdale, Florida.

FINDINGS OF FACT

1. Petitioner, Gordon D. McClure, (hereinafter "Petitioner") is a licensed registered nurse holding a bachelor's degree in nursing.
2. Petitioner is employed by a hospital.
3. The hospital at which Petitioner is employed has a Pharmacy, Therapeutics and Nutrition Committee (PTN Committee).
4. The PTN Committee developed a protocol for Automatic Pharmacy Therapeutic Substitutions, approved on November 1999. The protocol states that all "DO NOT SUBSTITUTE" orders will be honored.
5. Petitioner states that the protocol includes substitutions of classes of medications, rather than merely a generic form for a specific medication.
6. Petitioner provided a copy of the protocol at issue, which is attached hereto as Exhibit A.

CONCLUSIONS OF LAW

7. The Board of Nursing has authority to issue this Final Order pursuant to §120.565, Florida Statutes.
8. Section 464.003 provides as follows:

(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

3. The supervision and teaching of other personnel in the theory and performance of any of the above acts.

9. Section 464.018(1)(h), Florida Statutes, provides for imposition of discipline on the license of a registered nurse who engages in unprofessional conduct. Rule 64B9-8.006, Florida Administrative Code, defines unprofessional conduct to include:

(15) Practicing beyond the scope of the licensee's license, educational preparation or nursing experience.

10. Section 455.624(1) also authorizes discipline against the license of a professional nurse on the grounds of:

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

11. Petitioner is not acting outside the scope of his licensure and training by following such a substitution protocol as long as the protocol has gone through the facility's process for establishing standing orders and the treating physicians or advanced registered nurse practitioners participate or are in agreement with the protocol.

DONE and ORDERED this 23rd day of October, 2000.

BOARD OF NURSING

CATHY ANN OLES, LPN, BPS, Chair

NOTICE OF APPEAL RIGHTS

Pursuant to Section 120.569, Florida Statutes, the parties are hereby notified that they may appeal this Final Order by filing one copy of a notice of appeal with the Clerk of the Department of Health and one copy of a notice of appeal and the filing fee with the District Court of Appeal within 30 days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

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NO. 36

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE:

Petition for Declaratory
Statement of:
GAIL CASSEL, RN, COHN-S

FINAL ORDER NO. DOH-00-2329-DS-MQA
FILED DATE: 12-13-2000

FINAL ORDER

Gail Cassel, RN, COHN-S, petitioned for a declaratory statement asking if the performance of screening questionnaires pursuant to 29 CFR §1910.134 was within the scope of her license as defined in §464.003(3)(a), Florida Statutes. Performing functions outside the scope of practice therein defined is a violation of §464.018(1)(h) and §455.624(1)(o), Florida Statutes. This matter came before the Board of Nursing at its duly-noticed public meeting held on October 12, 2000 in Ft. Lauderdale, Florida.

FINDINGS OF FACT

1. Petitioner, Gail Cassel, (hereinafter "Petitioner") is a licensed registered nurse and a certified occupational health nurse.
2. Petitioner is employed by CSX Railroad as the Director of Employee Health.
3. A physician is available to Petitioner in the course of her duties.
4. 29 CFR §1910.134 requires certain employers to institute a respiratory protection program to aid in controlling occupational diseases caused by breathing contaminated air.
5. The respiratory protection program must include medical evaluations of employees required to use respirators, fit testing of respirators, and employee training in respiratory hazards and proper use of respirators. 29 CFR §1910.134(c)(1).
6. The employer is required to identify a physician or other licensed health care professional (PLHCP) to perform the medical evaluations using a medical questionnaire or a medical evaluation that obtains the same information solicited by the questionnaire. 29 CFR §1910.134(e).
7. The medical determination must include a written recommendation regarding the employee's ability to use the respirator, including limitations on respirator use, and the need for follow-up evaluation. 29 CFR §1910.134(e)(6).
8. The employee must be fit tested before the employee can be required to use a respirator with a negative or positive pressure face piece. 29 CFR §1910.134(f).
9. The tasks for which Petitioner seeks review are stated as follows:
 - a. Administering the medical questionnaire;

- b. Maintaining confidentiality of questionnaire contents;
- c. Reviewing the respirator use information on:
 - (1) hazard requiring respiratory protection;
 - (2) type of respirator to be worn, pending successful fit test;
 - (3) duration and frequency of respirator use;
 - (4) expected physical work effort while wearing a respirator;
 - (5) other personal protective equipment to be worn concurrently; and
 - (6) extremes of temperature and humidity.
- d. Integrating the questionnaire answers with review of respirator use information described in Paragraph "C," above.
- e. Performing a basic nursing assessment of the health of the employee related to respirator use.
- f. Determining if there is sufficient information to reach a reasonable and prudent nursing judgment related to the employee's safe use of a respirator without medical limitations.
- g. Referring the employee to a licensed physician if there is not sufficient information to reach the necessary judgment of the employee's ability to safely use a respirator without limitation.

CONCLUSIONS OF LAW

- 10. The Board of Nursing has authority to issue this Final Order pursuant to § 120.565, Florida Statutes.
- 11. Section 464.003 provides as follows:
 - a. "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:
 - (1) The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.
 - (2) The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

FLORIDA NURSING LAW MANUAL

(3) The supervision and teaching of other personnel in the theory and performance of any of the above acts.

12. Section 464.018(1)(h), Florida Statutes, provides for imposition of discipline on the license of a registered nurse who engages in unprofessional conduct. Rule 64B9-8.006, Florida Administrative Code, defines unprofessional conduct to include:

(15) Practicing beyond the scope of the licensee's license, educational preparation or nursing experience.

13. Section 455.624(1) also authorizes discipline against the license of a professional nurse on the grounds of:

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

14. The Board of Nursing has no authority to interpret 29 CFR §1910.134.

15. Petitioner stated that the Circuit Court for the 11th Circuit issued an opinion interpreting 29 CFR 1910.134; however, neither the opinion nor the citation to the case was provided, and that decision has not been considered in determining the response to her Petition.

16. Petitioner is not acting outside the scope of her licensure and training by performing the identified tasks required pursuant to 29 CFR §1910.134 at her place of employment.

DONE and ORDERED this 23rd day of October, 2000.

BOARD OF NURSING

CATHY ANN OLES, LPN, BPS, Chair

NOTICE OF APPEAL RIGHTS

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CERTIFICATE OF SERVICE

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NO. 37

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE: PETITION FOR DECLARATORY
STATEMENT OF:
HELEN M. SERPA, R.N.

FINAL ORDER NO. DOH-02-0364-DS-MQA
FILED DATE: 3/05/02

FINAL ORDER

This matter came before the Board of Nursing on February 7, 2002, in Miami, Florida, for consideration of the referenced Petition for Declaratory Statement. The Notice of Petition for Declaratory Statement was published on July 27, 2001, in the Vol. 27, No. 30, in the Florida Administrative Weekly.

The petition filed by HELEN M. SERPA inquired as to whether it is within the scope of practice for a registered nurse to perform laser treatments for vascular lesions and hair removal with a Medilas D Skin Pulse Laser.

FINDINGS OF FACTS

1. The Petitioner, a registered nurse is employed at Jupiter Plastic Surgery Center where she assists physicians in office based surgeries as well as performing laser treatments for vascular lesions and hair removal with a Medilas D Skin Pulse Laser.

2. The Petitioner performs such treatments under the supervision of a licensed physician and asserts that she has been trained in the use of lasers.

CONCLUSIONS OF LAW

3. The Board of Nursing has authority to issue this Final Order pursuant to Section 120.565, Florida Statutes.

4. Section 464.003, Florida Statutes, outlines the scope of practice for registered nurses and reads in part as follows:

(13)(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

3. The supervision and teaching of other personnel in the theory and performance of any of the above acts.

FLORIDA NURSING LAW MANUAL

5. While Section 464.003 does not address laser treatment procedures, Chapter 478, Florida Statutes, specifically addresses the use of hair removal with lasers. Section 478.42(5) reads as follows:

"Electrolysis or electrology" means the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system, using equipment and devices approved by the Board which have been cleared by and registered with the United States Food and Drug Administration and that are used pursuant to protocols approved by the Board.

6. The laser device used by the Petitioner, the Medilas D Skin Pulse Laser, is approved by the Board of Medicine under Rule 64B8-56.002, Florida Administrative Code.

7. Section 478.49(1), Florida Statutes, reads as follows:

No person may practice electrology or hold herself or himself out as an electrologist in this state unless the person has been issued a license by the Department and holds an active license pursuant to the requirements of this chapter.

8. When using laser devices for the purpose of removing hair, the person performing such a function must be licensed as an electrologist under Chapter 478, Florida Statutes, and must work under protocols approved by the Board of Medicine.

9. Section 478.54, Florida Statutes, exempts medical doctors, osteopathic physicians, and students from approved electrolysis training programs from the licensure requirements of Chapter 478, but fails to provide such an exemption to registered nurses licensed pursuant to Chapter 464, Florida Statutes.

10. Based on the foregoing, registered nurses may not perform hair removal procedures with a laser device unless the nurse is licensed pursuant to Chapter 478, Florida Statutes.

11. As to the issue involving the use of laser devices to treat vascular lesions, the Board determined that it could not provide a response to the petitioner due to insufficient information regarding administration of the procedure in question. Therefore, the Board of Nursing declines to issue a declaratory statement in response to vascular lesion inquiry.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 20th day of February, 2002.

NOTICE OF APPEAL RIGHTS

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CERTIFICATE OF SERVICE

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NO. 38

STATE OF FLORIDA
BOARD OF NURSING

IN RE:

Petition for Declaratory
Statement of:
BRENDA SAMMY, R.N.
STAFF NURSES, MANATEE SURGICAL CENTER

FINAL ORDER NO. DOH-02-0365-DS-MQA
FINAL DATE: 3/15/2002

FINAL ORDER

This matter came before the Board of Nursing on February 7, 2002, in Miami, Florida, for consideration of the referenced Petition for Declaratory Statement. The Notice of Petition for Declaratory Statement was published on July 20, 2001, in the Vol. 27, No. 29, in the Florida Administrative Weekly.

The petition filed by BRENDA SAMMY made the following inquiries:

- A. Is it within the scope of practice for a registered nurse to administer Diprivan, pursuant to a verbal or written order given by an anesthesiologist who remains in the procedure room performing a lumbar epidural steroid injection?
- B. When an Anesthesiologist has administered Diprivan but kept the syringe in the IV port while administering an eye block, is it within the scope of practice for a registered nurse to further administer Diprivan if ordered to do so by the anesthesiologist?
- C. Is it within the scope of practice for a registered nurse to monitor a patient who has received Diprivan when the R.N. has administered Diprivan pursuant to a verbal or written order given by an anesthesiologist who is in the procedure room performing a lumbar epidural steroid injection?
- D. Is it within the scope of practice for a registered nurse to monitor a patient who has received Diprivan if an anesthesiologist administers the Diprivan and remains in the room performing a lumbar epidural steroid injection?
- E. Is it within the scope of practice for a registered nurse to monitor a patient who has received Diprivan administered by an anesthesiologist who then performs an eye block, and leaves the patient in pre-op while the patient is still unresponsive?

FINDINGS OF FACT

- 1. Diprivan (Propofol) is an anesthetic agent which, according to the manufacturer, is to be used for, "general anesthesia or monitored anesthesia care (MAC) sedation: and "should be administered only by persons trained in the administration of general anesthesia and not involved in the conduct of the surgical/diagnostic procedure."
- 2. Diprivan takes patients into deep sedation, that is, deeper than conscious sedation.

FLORIDA NURSING LAW MANUAL

3. At the Petitioners current place of employment, anesthesiologists administer the Diprivan and a registered nurse is expected to monitor the patient's airway, cardiac, and respiratory status. The patient is commonly in the prone position making airway management and assessment more difficult.

4. Registered Nurses who monitor patients who have been administered Diprivan are expected to maintain the patient's airway.

5. In the pre-op area, the anesthesiologist performs eye blocks for the ophthalmologists. The anesthesiologist injects the Diprivan prior to the block and then leaves the patient to a registered nurse to monitor the patient.

6. The anesthesiologist also at times leaves the Diprivan if the patient starts to move while the anesthesiologist performs the eyeblock.

7. The Petitioner and her R.N. colleagues at Manatee Surgical Center are not trained to manage patients in deep sedation or under general anesthesia.

8. None of the Petitioners are certified registered nurse anesthetists (CRNA) or any other type of advanced registered nurse practitioners (ARNP).

CONCLUSIONS OF LAW

9. The Board of Nursing has authority to issue this Final Order pursuant to Section 120.565, Florida Statutes.

10. Section 464.003, Florida Statutes, outlines the scope of practice for registered nurses and reads in part as follows:

(3)(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

3. The supervision and teaching of other personnel in the theory and performance of any of the above acts.

11. Section 464.012, Florida Statutes, reveals the scope of practice for certified registered nurse anesthetist and reads in part as follows:

(a) The certified registered nurse anesthetist may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.

2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.

3. Order under the protocol pre-anesthetic medication.

4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.

5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

9. Participate in management of the patient while in the post-anesthesia recovery area, including ordering the administration of fluids and drugs.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

FLORIDA NURSING LAW MANUAL

12. The administration of anesthetic agent such as Diprivan for the purpose of rendering a patient insensible to pain, is an advanced practice act that may be performed by a CRNA under an established protocol with a duly licensed physician.

13. The monitoring and management of patients under anesthesia, during or after a procedure, when the patient does not have established airway, is also an advanced practice act that may be performed by a CRNA under an established protocol with a duly licensed physician.

14. Advanced practice acts may not be performed by registered nurses who are not certified as ARNPs pursuant to Section 464.012, Florida Statutes.

15. Based on the foregoing, the Petition is answered in the following manner:

A. It is not within the scope of practice for a registered nurse who is not a CRNA to administer Diprivan pursuant to a verbal or written order given by an anesthesiologist who remains in the procedure room performing a lumbar epidural steroid injection.

B. It is not within the scope of practice for a registered nurse who is not a CRNA to inject an additional dose of Diprivan through an IV port after the anesthesiologist administered the original dose of Diprivan.

C. It is not within the scope of practice for a registered nurse who is not a CRNA to monitor a patient who has received Diprivan when an R.N. had administered Diprivan pursuant to a verbal or written order given by an anesthesiologist who remains in the room performing a procedure.

D. It is not within the scope of practice for a registered nurse who is not a CRNA to monitor a patient who has received Diprivan even if the anesthesiologist remains in the room performing a procedure.

E. It is not within the scope of practice for a registered nurse who is not a CRNA to monitor a patient who has received Diprivan administered by an anesthesiologist who then performs an eye block and leaves the patient in pre-op while the patient is still unresponsive.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 20th day of February, 2002.

DAN COBLE
Executive Director

NOTICE OF APPEAL RIGHTS

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CERTIFICATE OF SERVICE

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MARIE WEBB

No. 39

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE:

Petition for Declaratory
Statement of:
SANDRA SCHELLHORN, R.N.

FINAL ORDER NO. DOH-03-0405-DS-MQA
FINED DATE: 4/29/2003

FINAL ORDER

THIS MATTER came before the Board of Nursing ("Board") pursuant to Section 120.565, Florida Statutes, as a duly-noticed public meeting held in Orlando, Florida, on February 13, 2003, for the purpose of considering the Petitioner for Declaratory Statement filed by Sandra Schellhorn, R.N., Director of Nursing, Baptist Medical Center, Jacksonville, Florida ("Petitioner"). Notice of the petition was published in the Florida Administrative Weekly on February 7, 2003, at Volume 29, Number 6. The notice indicated that the petition was filed by "Baptist Medical Center." Having considered the petition, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Petitioner is a Registered Nurse licensed to practice nursing in the State of Florida.
2. Section 464.003(3)(a), Florida Statutes, defines the practice of professional nursing as "the performance of those acts requiring a substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:
 1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.
 2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.
 3. The supervision and teaching of other personnel in the theory and performance of any of the above acts."

3. Section 464.012(4)(a), Florida Statutes, provides that a Certified Registered Nurse Anesthetist (CRNA) "may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:

1. Determine the health status of the patient as it related to the risk factors and to the anesthetic management of the patient through the performance of the general functions.
2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.
3. Order under the protocol pre-anesthetic medication.
4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.
5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.
6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.
7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.
8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.
9. Participate in management of the patient while in the post-anesthesia recovery area, including ordering the administration of fluids and drugs.
10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate."

4. Diprivan is an intravenous sedative/hypnotic agent and is indicated for induction and maintenance of general anesthesia in adults; adult sedation in monitored anesthesia care; intensive care unit sedation for intubated,

mechanically ventilated adults; pediatric anesthesia (with age-specific limitations); neuroanesthesia; and cardiac anesthesia.

5. Petitioner asks the following questions:
- a. Is it within the scope of practice for a registered nurse who is not a CRNA to administer Diprivan (propofol) for the purpose of sedation to a monitored, intubated and mechanically ventilated patient who is located in an intensive care setting, pursuant to a verbal or written order given by a licensed independent practitioner?
 - b. Is it within the scope of practice for a registered nurse who is not a CRNA to monitor an intubated and mechanically ventilated patient receiving Diprivan (propofol) for the purpose of sedation, pursuant to a verbal or written order given by a licensed independent practitioner?

CONCLUSIONS OF LAW

6. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

7. The Board answers both of the Petitioner's questions in the affirmative, provided that the registered nurse is trained and certified in Advanced Cardiac Life Support, and is following the established policies and procedures of the facility where the nurse performs the acts indicated.

8. This Order constitutes final agency action and may be appealed by any party pursuant to Section 120.66, Florida Statutes, and Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, by filing a notice of appeal conforming to the requirements of Rule 9.110(d), Florida Rules of Appellate Procedure, both with the appropriate District Court of Appeal, accompanied by the appropriate filing fee, and with the department's clerk of agency proceedings, within thirty (30) days of rendition of this Order.

DONE AND ORDERED this 24th day of April, 2003.

DAN COBLE
Executive Director

NO. 40

**STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF NURSING**

IN RE:

THE PETITION FOR DECLARATORY
STATEMENT OF:

FINAL ORDER NO.: DOH-03-0406-DS-MQA
FILED DATE: 4/29/03

JAMES R. HERBERT, R.N.

FINAL ORDER

This matter came before the Board of Nursing pursuant to Chapter 120.565, Florida Statutes, at a duly noticed public meeting in Orlando, Florida on February 13, 2003, for the purpose of considering the Petition for Declaratory Statement filed by James R. Herbert, R.N. Notice of the petition was published in the Florida Administrative Weekly on February 7, 2003, at Volume 29, Number 6. Having considered the Petition, the Board makes the following findings and conclusions:

FINDINGS OF FACT

1. Petitioner is a registered nurse licensed to practice nursing in the State of Florida.
2. Section 464.003(3(a), Florida Statutes, defines the practice of professional nursing as "the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:
 1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.
 2. The administration of medications and treatments prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.
 3. The supervision and teaching of other personnel in the theory and performance of any of the above acts.
3. Petitioner states that registered nurses who have received specialized training can place peripherally inserted central catheters (PICC).
4. Petitioner further states that, because the terminal tip of a PICC lies within the superior vena cava, dislodgement and/or fracture of the catheter can result in serious injury to the patient.
5. Petitioner further states that, in order to maximize patient safety and prevent accidental removal of the line, practitioners will often secure the PICC with a skin suture.
6. Petitioner inquires whether the placement of a skin suture for the purpose of securing a PICC is within the scope of practice of a registered nurse.

CONCLUSIONS OF LAW

7. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

FLORIDA NURSING LAW MANUAL

8. It is the opinion of the Board that there is insufficient information upon which the Board can issue a declaratory statement as requested by Petitioner. Placement of a skin suture for the purpose of securing a PICC could be within the scope of practice of a registered nurse if an approved provider of nursing education or continuing education teaches suturing as part of PICC placement. However, the Board is not aware of the inclusion of this practice within the curriculum of any approved provider. Therefore, the Board DENIES this petition.

9. This order constitutes final agency action and may be appealed by any party pursuant to Section 120.68, Florida Statutes, and Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, by filing a notice of appeal conforming to the requirements of Rule 9.110(d), Florida Rules of Appellate Procedure, both with the appropriate district Court of Appeal, accompanied by the appropriate filing fee, and with the department's clerk of agency proceedings, within thirty (30) days of rendition of this Order.

DONE and ORDERED this 29th day of April, 2003.

BOARD OF NURSING

DAN COBLE
Executive Director

CERTIFICATE OF SERVICE

* * *

NO. 41

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE:

Petition for Declaratory
Statement of:
LINDA C. NOELKE, R.N.

FINAL ORDER NO. DOH-03-0407-DS-MQA
FINED DATE: 4/29/2003

FINAL ORDER

THIS MATTER came before the Board of Nursing ("Board") pursuant to Section 120.565, Florida Statutes, at a duly-noticed public meeting held in Tampa, Florida on April 10, 2003, for the purpose of considering the Petition for Declaratory Statement filed by Linda C. Noelke, R.N. ("Petitioner"). Notice of the petition was published in the Florida Administrative Weekly on March 14, 2003, at Volume 29, Number 11. Having considered the petition, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Petitioner is a Registered Nurse licensed to practice nursing in the state of Florida.
2. Section 464.003(3)(a), Florida Statutes, defines the practice of professional nursing as "the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:

"1. The observation, assessment, nursing, diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

"2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

"3. The supervision and teaching of other personnel in the theory and performance of any of the above acts."

3. Section 464.012(4)(a), Florida Statutes, provides that a Certified Registered Nurse Anesthetist (CRNA) "may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:

"1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.

"2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.

"3. Order under the protocol pre-anesthetic medication.

"4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalations agents and techniques; intravenous agents and techniques; and techniques of hypnosis.

"5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

"6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.

"7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

"8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

"9. Participate in management of the patient while in the post-anesthesia recovery area, including ordering the administration of fluids and drugs.

"10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate."

4. Ketamine hydrochloride is a nonbarbiturate general anesthetic that has hypnotic, analgesic, and amnesic effects.

5. Petitioner is a licensed to practice professional nursing in the state of Florida, holding license number RN 789932. She is not certified as an Advanced Registered Nurse Practitioner. She is trained in basic cardiac life support, and is certified as a plastic surgery nurse.

6. Petitioner asks the following questions:

a. Is it within the scope of practice for a registered nurse to administer intravenous Ketamine (Ketalar) pursuant to a written or verbal order by a surgeon in an ambulatory surgery setting where the patient is not intubated?

b. Is it within the scope of practice for a registered nurse to administer intravenous Ketamine (Ketalar) pursuant to a written or verbal order by the surgeon for the purpose of rendering the patient insensible to pain for the injection of local anaesthetic and surgical procedures?

c. Is it within the scope of practice for a Registered Nurse to administer intravenous Ketamine (Ketalar) pursuant to a written or verbal order by a surgeon in the ambulatory surgery setting where there is not an anesthesiologist on staff?

CONCLUSIONS OF LAW

7. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

8. The Board answers all three of the Petitioner's questions in the negative.

9. This Order constitutes final agency action and may be appealed by any party pursuant to Section 120.68, Florida Statutes, and Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, by filing a notice of appeal conforming to the requirements of Rule 9.110(d), Florida Rules of Appellate Procedure, both with the appropriate District of Appeal, accompanied by the appropriate filing fee, and with the department's clerk of agency proceedings, within thirty (30) days of rendition of this Order.

DONE AND ORDERED this 25th day of April, 2003.

DAN COBLE
Executive Director

CERTIFICATE OF SERVICE

* * *

SUSAN K. GLANT

NO. 42

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE: THE PETITION FOR DECLARATORY
STATEMENT OF:
BARBARA MASHOUR-SMITH, R.N.

FINAL ORDER NO. DOH-03-0408-DS-MQA
FILED DATE: 4/29/03

THIS MATTER came before the Board of Nursing ("Board") pursuant to Section 120.565, Florida Statutes, at a duly-noticed public meeting held in Orlando, Florida on February 13, 2003, for the purpose of considering the Petition for Declaratory Statement filed by Barbara Mashour-Smith, R.N. ("Petitioner"). Notice of the Petition was published in the Florida Administrative Weekly on November 22, 2002, at Volume 28, Number 47. Having considered the petition, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Petitioner is a Registered Nurse licensed to practice nursing in the state of Florida.
2. Section 464.003(3)(a), Florida Statutes, defines the practice of professional nursing as "the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:
 1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.
 2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to Prescribe such medications and treatments.
 3. The supervision and teaching of other personnel in the theory and performance of any of the above acts."
3. Section 464.012(4)(a), Florida Statutes, provides that a Certified Registered Nurse Anesthetist (CRNA) "may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:
 1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.
 2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the

responsible physician, the appropriate type of anesthesia within the framework of the protocol.

3. Order under the protocol pre-anesthetic medication.

4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.

5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient

6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthesia care.

9. Participate in management of the patient while in the post-anesthesia recovery area, including ordering the administration of fluids and drugs.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

4. Diprivan® is an intravenous sedative/hypnotic agent and is indicated for induction and maintenance of general anesthesia in adults; adult sedation in monitored anesthesia care; intensive care unit sedation for intubated, mechanically ventilated adults; pediatric anesthesia (with age-specific limitations); neuro-anesthesia; and cardiac anesthesia.

5. Petitioner asks the following questions:

a. Is it within the scope of practice for a registered nurse who is not a CRNA to administer Diprivan to a monitored and intubated patient pursuant to a verbal or written order given by a licensed independent practitioner?

b. Is it within the scope of practice for a nurse who is not a CRNA to monitor an intubated patient that has received

Diprivan pursuant to a verbal or written order given by a licensed independent practitioner?

c. Is there a difference between the management and of Diprivan (for a monitored and intubated patient) by a registered nurse who is not a CRMA, if the Diprivan is being given as sedation for a procedure performed at the bedside versus as an anesthetic for an OR procedure?

CONCLUSIONS OF LAW

6. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

7. The board answers the Petitioner's questions as follows:

a. Yes, if the registered nurse is trained and certified in Advanced Cardiac Life support, and is following the established policies and procedures of the facility where the nurse performs the acts indicated.

b. Same answer as "a."

c. The Board declines to answer this question because the Petition provides Insufficient information.

8. This Order constitutes final agency action and may be appealed by any party pursuant to Section 120.68, Florida Statutes, and Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, by filing a notice of appeal conforming to the requirements of Rule 9.110(d), Florida Rules of Appellate Procedure, both with the appropriate District Court of Appeal, accompanied by the appropriate filing fee, and with the department's clerk of agency proceedings, within thirty (30) days of rendition of this Order.

DONE AND ORDERED this 24th day of April, 2003.

BOARD OF NURSING

DAN COBLE, Executive Director

CERTIFICATE OF SERVICE

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NO. 43

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE: PETITION FOR DECLARATORY
STATEMENT OF:
KATHLEEN DAVITT, R.N.

FILE ORDER NO. DOH-03-1381-DS-MQA
FILED DATE: 11/14/03

FINAL ORDER

This matter came before the Board of Nursing, (hereinafter the "Board") on October 9-10, 2003, in Jacksonville, Florida, for consideration of the referenced Petition for Declaratory Statement. The Notice of Petition for Declaratory Statement was published on September 19, 2003, in Vol. 29, No. 38, in the Florida Administrative Weekly.

The petition filed by Kathleen Davitt, R.N., inquired as to the following:

1. Is it within the scope of practice for a registered nurse in the state of Florida trained in ACLS to defibrillate a patient (using a defibrillator not an AED) upon recognizing ventricular fibrillation or ventricular tachycardia in an inpatient or ambulatory care setting prior to ACLS code team arrival or physician verbal or written order?
2. Is it within the scope of practice for a registered nurse in the state of Florida trained in ACLS to defibrillate a patient (using a defibrillator not an AED) upon recognizing ventricular fibrillation or ventricular tachycardia in an inpatient or ambulatory procedure setting prior to ACLS code team arrival, if there are standing orders and protocols for the nurse to follow in that situation?

FINDING OF FACT

1. The Petitioner is a registered nurse licensed in the state of Florida.
2. The Petitioner works at the Naval Hospital Jacksonville.
3. ACLS stands for American Heart Associations' Advanced Cardiac Life Support.
4. ACLS teaches nurses algorithms for ventricular fibrillation and ventricular tachycardia with an emphasis on early defibrillation.
5. Nurses that attend ACLS training are instructed in this treatment protocol and are expected to provide a return demonstration in the course.
6. AED stands for Automated External Defibrillator.

CONCLUSIONS OF LAW

7. The Board of Nursing has authority to issue this Final Order pursuant to section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.
8. Section 464.003, F.S., defines the practice of professional nursing and the practice of practical nursing.
9. Section 464.018(n), F.S., makes it a disciplinary violation for a licensed nurse to fail to meet the minimal standards of acceptable and prevailing nursing practice including engaging in acts for which the licensee is not qualified by training or experience.
10. ACLS certification alone does not allow a healthcare professional to initiate defibrillation.
11. ACLS trained nurses must work under a medical director/physicians orders when initiating defibrillation, following specific well-defined facility policies and procedures.
12. Not all defibrillators are set like the AED to determine exact arrhythmias, so a physician would need to diagnose and order the rhythm and defibrillation.
13. It is not within the scope of practice for a registered nurse in the state of Florida trained in ACLS to defibrillate a patient (using a defibrillator not an AED) upon recognizing ventricular fibrillation or ventricular tachycardia in an inpatient or ambulatory care setting prior to ACLS code team arrival or physician verbal or written order.
14. It is within the scope of practice for a registered nurse in the state of Florida trained in ACLS to defibrillate a patient (using a defibrillator not an AED) upon recognizing ventricular fibrillation or ventricular tachycardia in an inpatient or ambulatory procedure setting prior to ACLS code team arrival, if there are standing orders and protocols for the nurse to follow in that situation.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 12th day of November 2003.

BOARD OF NURSING

Dan Coble, RN, PhD,
Executive Director on behalf of
ROSA RAMOS, RN, CHAIR

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF

FLORIDA NURSING LAW MANUAL

APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

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DEPARTMENT OF HEALTH

Board of Nursing

The Board of Nursing hereby gives notice that it has issued a Final Order in the Petition for Declaratory Statement filed on behalf of Kathleen Davitt, R.N. The Board reviewed the petition at its meeting held on October 8-9, 2003, in Jacksonville, Florida. The Board's Final Order, filed in this cause on November 14, 2003, finds that under the specific facts of the petition, it is not within the scope of practice for a registered nurse trained in ACLS (Advanced Cardiac Life Support) to defibrillate a patient upon recognizing ventricular fibrillation or ventricular tachycardia in an inpatient or ambulatory care setting prior to ACLS code team arrival or physician verbal or written order. It is within the scope of practice for a registered nurse trained in ACLS to defibrillate a patient upon recognizing ventricular fibrillation or ventricular tachycardia in an inpatient or ambulatory care setting if there are standing orders and protocols to follow in that situation.

A copy of the Petition and the Board's Final Order may be obtained by contacting the Board of Nursing, 4052 Bald Cypress Way, Bin C-02, Tallahassee, Florida 32399-3252.

**Naval Hospital Jacksonville
2080 Child Street
Jacksonville, Florida 32214
(904) 542-9185 phone
(904) 542-9184 fax**

August 29, 2003

Florida Board of Nursing
Department of Health's Agency Clerk's Office
4052 Bald Cypress Way, Bin #AO2
Tallahassee, Florida 32399-1703

Petition for Declaratory Statement Before the State of Florida Board of Nursing

I, Kathleen Davitt, would like to petition the State of Florida, Board of Nursing, for a declaratory statement regarding Section 464 of the Florida Statutes, The Nurse Practice Act.

A great deal of emphasis has been placed on the immediate defibrillation of lethal dysrhythmias to improve patient outcomes in cardiac arrest situations. The American Heart Associations' Advanced Cardiac Life Support algorithms for ventricular fibrillation and ventricular tachycardia emphasize early defibrillation. Nurses that attend ACLS training are instructed in this treatment protocol, and are expected to provide return demonstration in the course.

FLORIDA NURSING LAW MANUAL

This creates role confusion as to whether or not it is within the scope of practice for a registered nurse to initiate this treatment.

A. Is it within the scope of practice for a registered nurse in the state of Florida trained in ACLS to defibrillate a patient (using a defibrillator not an AED) upon recognizing ventricular fibrillation or ventricular tachycardia in an inpatient or ambulatory care setting prior to ACLS code team arrival or physician verbal or written order?

B. Is it within the scope of practice for a registered nurse in the state of Florida trained in ACLS to defibrillate a patient (using a defibrillator not an AED) upon recognizing ventricular fibrillation or ventricular tachycardia in an inpatient or ambulatory procedure setting prior to ACLS code team arrival, if there are standing orders and protocols for the nurse to follow in that situation?

Thank you for your time and consideration in this matter.

Sincerely,

Kathleen Davitt, R.N.

NO. 44

STATE OF FLORIDA BOARD OF NURSING

IN RE: PETITION FOR DECLARATORY STATEMENT
KATHERINE SCHOLL, RN

FINAL ORDER NO. DOH-04-0039-DS-MQA
FILED DATE: 1/20/2004

FINAL ORDER

This matter came before the Board of Nursing (hereinafter the "Board") on December 4-5, 2003 in Ft. Lauderdale, Florida, for consideration of the referenced Petition for Declaratory Statement. The Notice of petition for Declaratory Statement was published on November 21, 2003 in Volume 29, No. 47, in the Florida Administrative Weekly.

The petition filed by Katherine Scholl, R.N. inquired as to the following:

1. Is it within the scope of practice for a registered nurse in the state of Florida trained as a Sexual Assault Nurse Examiner ("SANE") to perform sexual battery examinations including speculum exams for evidence/specimen collection under the direct supervision of a Florida licensed physician in a hospital emergency department?

2. Does the Board adopt the use of the International Association of Forensic Nurses model for SANE training of registered nurses including training in speculum exams for evidence/specimen collection purposes?

3. Is it within the scope of practice for a registered nurse in the state of Florida trained as a SANE and in compliance with established policies, procedures and protocols of the U.S. Department of Justice to perform sexual battery examinations including speculum exams for evidence/specimen collection under the supervision of a Florida licensed physician in a community-based setting?

4. Is it within the scope of practice for a registered nurse in the state of Florida trained as a Sexual Assault Nurse Examiner-Pediatric ("SANE-P") to perform sexual battery examinations including speculum exams for evidence/specimen collection on a pediatric (Tanner Stage 1 and 2) victim of sexual battery?

5. Is it within the scope of practice for a registered nurse in the state of Florida trained as a Sexual Assault Nurse Examiner-Adolescent ("SANE-A") to perform sexual battery examinations including speculum exams for evidence/specimen collection on an adolescent (Tanner Stage 3, 4, and 5) victim of sexual battery?

FINDINGS OR FACT

1. The Petitioner is a registered nurse licensed in the state of Florida.
2. The Petitioner is trained as a SANE.
3. SANE's training includes but is not limited to the following:
 - a. SANE and it's functions within the Sexual Assault Response Team Model established by the U.S. Department of Justice;
 - b. An understanding of the roles the victim advocates, law enforcement and the judicial system have with victims of sexual battery and the prosecution of the case;
 - c. Normal human anatomy (Tanner Stages 1 through 5) and normal human sexual response;
 - d. Evidence collection including clothing, swabs, slides, and hair combings;
 - e. Speculum exams for the purpose of evidence and Sexually Transmitted Disease ("STD") collection only; and
 - f. A basic understanding of the pregnancy prevention and SID prophylaxis medications utilized for sexual batter victims.
4. SANE-A training includes 40 hours of didactic specialized training in provided evidence collection examinations for adults and adolescents (Tanner Stages 3, 4, and 5) victims of sexual battery.
5. SANE-P training includes specialized training with regard to evidence collection examinations for pediatrics (Tanner Stages 1 and 2) victims of sexual battery.
6. The International Association of Forensic Nurses, with the support of the U.S. Department of Justice, American College of Emergency Physicians, American Nurses Association, and Emergency Nurses Association, has established training and certification guidelines for registered nurses as Sexual Assault Nurse Examiners.
7. Sexual Assault Nurse Examiners are registered nurses with advanced education in forensic examination of sexual assault victims.

8. SANE programs have been operating throughout the United States for more than 20 years.

CONCLUSIONS OF LAW

9. The Board of Nursing has authority to issue this Final Order pursuant to section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

10. Section 464.003, F.S., defines the practice of professional nursing and the practice of practical nursing.

11. Section 464.018(n), F.S., makes it a disciplinary violation for a licensed nurse to fail to meet the minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the licensee is not qualified by training or experience.

12. It is within the scope of practice for a registered nurse in the state of Florida trained as a SANE to perform sexual battery examinations including speculum exams for the sole purpose of evidence/specimen collection under the direct supervision of a Florida licensed physician in a hospital emergency department.

13. The Board recognizes the use of any training model for SANE training of registered nurses including training in speculum exams for evidence/specimen collection purposes so long as the training model is accepted by the U.S. Department of Justice.

14. It is within the scope of practice for a registered nurse in the state of Florida trained as a SANE and in compliance with established policies, procedures and protocols of the U.S. Department of Justice to perform sexual battery examinations including speculum exams for evidence/specimen collection under the supervision of a Florida licensed physician in a community-based setting.

15. It is within the scope of practice for a registered nurse in the state of Florida trained as a SANE-P to perform sexual battery examinations including speculum exams for evidence/specimen collection on a pediatric (Tanner Stage 1 and 2) victim of sexual battery.

16. It is within the scope of practice for a registered nurse in the state of Florida trained as a Sexual Assault Nurse Examiner-Adolescent/Adults ("SANE-A") to perform sexual battery examinations including speculum exams for evidence/specimen collection on an adolescent (Tanner Stage 3, 4, and 5) victim of sexual battery.

17. It is not within the scope of practice for a registered nurse in the state of Florida trained as a SANE to conduct a sexual battery pelvic exam for diagnostic purposes.

18. A Florida licensed physician must always be available for patient assistance when a Florida registered nurse trained as a SANE is conducting a sexual battery examination.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 20th day of January, 2004.

BOARD OF NURSING

FLORIDA NURSING LAW MANUAL

DAN COBLE, RN, PHD,
EXECUTIVE DIRECTOR

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