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## Laws that Govern the Florida Nurse



### Objectives:

Upon completion of this program the participant will be able to:

- 1) Understand the purpose of the Nurse Practice Act.
- 2) Identify the various levels of specialization available to the Florida Nurse.
- 3) Discuss the process of obtaining a license to practice Nursing in Florida.
- 4) Review pertinent laws defined by standards that relate to the practice of nurses in Florida.
- 5) Define scope of practice.
- 6) Recognize the difference between ethical and legal issues that arise when providing care.
- 7) List three considerations that pertain to the nurse's responsibility in regards to delegation of tasks.
- 8) Explain what constitutes "abandonment" in nursing care.
- 9) Explain how the disciplinary process works.
- 10) Summarize the process for license renewal

## **Introduction:**

Nurses who are licensed in the state of Florida are now required to receive education regarding the laws that govern their practice of nursing. The purpose for this is to ensure that all nurses who hold a current license can meet the requirements for providing safe care while understanding the framework that applies to practice standards. This content will provide information regarding the laws and rules that regulate the nurse in Florida.

## **Regulated Content:**

The content that this educational program provides is derived from the Nurse Practice Act. Specifically covered is the content from Title XXXII, The Regulation of Professions and Occupations under Chapter 464 which outlines the Nurse Practice Act.(ss.464.001-464.027). Also cited will be information obtained from the Florida Administrative Code regarding the regulations contained in Subtitle 641B9.

Chapter 456 outlines the general laws and rules for various professions and occupations ranging from health care to attorneys and even private investigators in the state of Florida. Each state has the obligation to govern and oversee the safety of various occupations that impact the public. These government regulations are designed to protect the public at large from suffering potential harm from professionals who are unqualified or otherwise deemed unsafe. The majority of the regulations from state to state regarding safe work place practices are found to be quite similar. The Florida Administrative Code (FAC)-Title 64B9 contains the accumulated data regarding the rules for the state of Florida Board of Nursing. This information is overseen by the Department of Florida and it is updated frequently.

Chapter 456, and the above mentioned Florida Administrative Code form the framework to specifically lead to Chapter 464 and the Florida Nurse practice Act. Combined these laws and rules form the foundation for the legal practice of nursing in Florida.

The Florida Statutes contains the information regarding the state laws which are organized by subject matter in units defined as titles, parts, chapters and sections. There are 58 Titles and each contains a number of chapters. This is where rules (Chapter 464) are found that relate to the Nurse Practice Act, safe work place practices and content regarding unprofessional conduct. Additionally, Chapter 464 is specific to nursing and has two separate parts: Part 1 contains The Florida Nurse Practice Act and Part 2 contains the regulations that govern the certified Nursing Assistant.

In Florida, the first Nurse Practice Act was enacted in 1913. This was due to major growth in the number of hospitals and training centers. Thus the need for establishing standards for the delivery of patient care and professional nursing associations were developed. Currently there are over 300,000 licensed nurses working in Florida and each licensed nurse should be informed in the matters that affect lawful practice and competency that follows current care standards. Sadly, this is not always the case, as in 2012 - 78 licensed nurses had their license revoked. Additionally, 440 had their license suspended while another 55 were placed on probation. Hence the need for training in accordance with the Practice Act becomes more evident. Nurses today have an increased workload that comes with more responsibilities and must be accountable for the care they provide. All nurses should be aware of the following information that is contained in Chapter 464.



**The Nurse Practice Act (part 1) contains the following 25 sections:**

- 464.001: Short title.
- 464.002: Purpose.
- 464.003: Definitions.
- 464.004: Board of Nursing; membership; appointment; terms.
- 464.005: Board headquarters.
- 464.006: Rulemaking authority.
- 464.008: Licensure by examination.
- 464.009: Licensure by endorsement.
- 464.0115: Certification of clinical nurse specialists.
- 464.012: Certification of advanced registered nurse practitioners; fees.
- 464.013: Renewal of license or certificate.
- 464.014: Inactive status.
- 464.015: Titles and abbreviations; restrictions; penalty.
- 464.016: Violations and penalties.
- 464.017: Sexual misconduct in the practice of nursing.
- 464.018: Disciplinary actions.
- 464.019: Approval of nursing education programs.
- 464.0195: Florida Center for Nursing; goals.
- 464.0196: Florida Center for Nursing; board of directors.
- 464.0205: Retired volunteer nurse certificate.
- 464.022: Exceptions.
- 464.027: Registered nurse first assistant.

## Definitions of Levels of Nursing Practice:

The Nurse Practice Act recognizes various levels of nursing practice. These designations are described in 464.003 in the Florida Statutes. They are as follows:

### Registered Nurse: (RN)

This term covers any person who is licensed in Florida to practice professional nursing. The scope of practice for an RN is defined in Section 464.003 of the Florida Statutes and includes the performance of those acts which require substantial specialized knowledge, judgment and nursing skill. These attributes are based upon applied principles of psychological, biological, physical and social sciences. Based on these training requirements the nurse is responsible for the following:

- ❖ Observation, assessment, nursing diagnosis, planning intervention and evaluation of care. Also included is the health teaching and counseling of the ill, injured or infirm. As well as the promotion of health and wellness of individuals.
- ❖ Administration of medications and treatments as prescribed by a licensed practitioner authorized by the laws of this state to prescribe medications and treatments.
- ❖ The supervision and teaching of other personnel in the theory and performance of any of the acts described in this subsection.



### Licensed Practical Nurse: (LPN)

The LPN is licensed in the state of Florida to perform practical nursing. The Florida Statutes define practical nursing as the performance of selected acts which include:

- ❖ Administration of treatments and medications in the care of the ill, injured or infirm.
- ❖ Promotes wellness and the maintenance of health.
- ❖ Must work under the direction of a registered nurse, licensed physician, licensed osteopathic physician, licensed podiatric physician or a licensed dentist.

## **Clinical Nurse Specialists: (CNS)**

Clinical Nurse Specialists (CNS) are Advanced Practice nurses who hold a master's or doctoral degree in a specialized area of nursing practice. Their area of clinical expertise may be in:

- a population (e.g. pediatrics, geriatrics, women's health);
- a setting (e.g. critical care, emergency room);
- a disease or medical subspecialty (e.g. diabetes, oncology);
- a type of care (e.g. psychiatric, rehabilitation); or
- a type of health problem (e.g. pain, wounds, stress).

In addition to the conventional nursing responsibilities which focus upon helping patients to prevent or resolve illness, a CNS' scope of practice includes diagnosing and treating diseases, injuries and/or disabilities within his/her field of expertise. Clinical Nurse Specialists provide direct patient care, serve as expert consultants for nursing staffs, and take an active hand in improving health care delivery systems.

## **Advanced Registered Nurse Practitioners: (ARNP)**

Advanced practice nurses must be grounded in theory and research as these are the guides to their clinical practice. While they work in collegial capacities with physicians, they must be prepared to diagnose and treat patients with acute and chronic illnesses and to prescribe medications. They are certified by the Board of Nursing to perform at an advanced level. Additionally, they are required to maintain malpractice insurance prior to licensure. Proof of insurance is also required upon each renewal.



Advanced Practice Nurses perform these general functions:

- ❖ Obtain health histories and perform comprehensive physical examinations, including psychosocial, functional, and developmental assessment
- ❖ Order and interpret lab results and other diagnostic studies
- ❖ Develop differential diagnoses
- ❖ Develop/order therapeutic plan of care
- ❖ Maintain patient records
- ❖ Evaluate patient's response to plan of care and modify as needed
- ❖ Provide patient/family counseling and education
- ❖ Arrange for patient referrals/consultations

## **Registered Nurse First Assistants:**

The registered nurse first assist must meet the qualifications of “assistants at surgery” by physicians and hospitals that offer surgical services. The nurse first assist must be licensed as a registered nurse and also be certified in perioperative nursing. They must have completed a recognized program that includes the content of the Association of Operating Room Nurses Core Curriculum. The program spans 1 academic year with 45 hours of didactic instruction and 120 hours of clinical internship. Each health care institution will establish their guidelines for the appointment of clinical privileges.

## **The Board of Nursing: (BON)**

The Florida Board of Nursing plays an integral role in health care regulation as the board members and staff will interact regularly with other nursing affiliated groups in Florida, as well as the National Council of State Boards of Nursing.

The board is made up of 13 members: seven Registered Nurses who have been engaged in the practice of professional nursing at least four years (one must be an advanced registered nurse practitioner, one must be a nurse executive, and one must be a nurse educator member of an approved program); three Licensed Practical Nurses who have been engaged in the practice of practical nursing at least four years; three consumer members who have never been connected with the practice of nursing .No member may be appointed as a lay member if they have any affiliation with a health care facility, agency or insurer. All board members must be Florida residents and one must be at least 60 years old. (Florida Statute 464.0.04)



Nursing boards are responsible for enforcing the nurse practice act and have additional duties such as:

- ✓ Protection of the public
- ✓ Ensure the competence of practitioners that are regulated by the board
- ✓ Regulate due process and ethical behavior
- ✓ Participate in strategic collaboration
- ✓ Develop evidence-based regulations
- ✓ Understand the globalization of nursing

Board members are appointed by the governor and they may serve (2) four year terms. After their term expires, they can continue to serve until their position is replaced.

## Scope of Practice:

Scope of Practice is a term used by national and state/provincial licensing boards for various professions that define the procedures, actions, and processes that are permitted for the licensed individual. Each nurse must be aware of the limitations that are evident according to their specialty. It is important to understand your scope of practice but also the scope of practice of others who make up the nursing team. There may be a combination of healthcare personnel assigned to various areas. This could include RN's LPN's, Advanced Practice Nurses as well as unlicensed assistive personnel. This becomes important when assigning tasks to another caregiver as we are held accountable for the appropriateness of the delegated tasks. This is essential because an individual who works outside their scope of practice or delegates inappropriately may have the potential for disciplinary action to be taken against their license. It has also been the basis for medical malpractice suits filed by the Board of Nursing.

The primary concern must always be for safe and competent nursing care delivered to the patient. If a nurse feels unsure about the task that he or she is being asked to perform it is always prudent to clarify what the specific activity entails. Obtaining as much information as needed to make a reasonable decision entails understanding the policies and procedures that are present in the facility. Then a self- assessment is necessary to determine if the skills and ability are in place to safely complete the task. If you question your ability to get the job done or the legality of a situation, you must express this concern to a supervisor because once you accept an assignment, you are legally accountable to complete it in a safe and competent manner. It is at this critical point that you need to decide whether you are willing to accept the consequences of your action as a nurse. If you are not, do not perform the activity or task. Additional information may be found at the Florida Board of Nursing.

## Nursing Education:

Lists of all the approved and accredited pre-licensure nursing education programs in Florida are available on a website titled "**Compare Florida Prelicensure Nursing Education Programs**".

An "**approved**" nursing education program is a program for the prelicensure education of professional or practical nurses that is conducted in Florida at an educational institution that is approved and regulated under s.464.019, Florida Statutes. Approved nursing education programs are not required to be accredited; however, many programs are regionally or nationally accredited through educational or vocational accrediting agencies.

An "**accredited**" nursing education program, as defined by s. 464.003, Florida Statutes, is a program for the prelicensure education of professional or practical nurses that is conducted in the United States at an educational institution, whether in Florida, another state, or the District of Columbia, and that is accredited by a

specialized nursing accrediting agency that is nationally recognized by the United States Secretary of Education to accredit nursing education programs: Accreditation Commission for Education in Nursing (ACEN) or Commission on Collegiate Nursing Education (CCNE). (Fla Statute 464.019)

The Board of Nursing closely monitors the education programs that are approved by the state. In 2012 there were eleven programs that were placed on probationary status for failing to meet the requirements necessary for passing licensure exams. This minimum pass exam rate is set by the state legislature. If the successful pass rate falls below 10% of the national average, then the board will require that corrective action is taken and the program will be closely monitored to ensure the pass rates increase. The need for qualified nurses is great in Florida and 172 new nursing programs have been approved from 2009-2013.

Covered content in approved programs must include the following:

- ✓ Principles of growth and development
- ✓ Pharmacology
- ✓ Medication administration
- ✓ Medical concepts
- ✓ Surgical training
- ✓ Pediatric and obstetrics
- ✓ Geriatric education
- ✓ Mental health
- ✓ Legal aspects of nursing

The statutes require that at least 40% of bachelor's level training consist of clinical hands on experience. The shorter practical, associate or diploma training programs must provide at least 50% of clinical training. Additional program content includes ethics, interpersonal skills and leadership training.



Clinical preceptors are required to be licensed nurses that serve as a role model and a clinical resource to a student for a specific amount of time. Also the program is required to provide some degree of community based learning experiences in which the student provides nursing care to individuals, families or groups with the intent to promote wellness, maintain health and prevent illness. Simulator experience offers the student the opportunities integrate and apply skills which are based on theoretical concepts.

It is upon successful completion of an approved nursing education program that the individual will be eligible to apply to take the exam for professional licensure.

## Licensure Requirements:

The process of professional licensure is strictly regulated in Florida. The first step that an individual applying for registered or practical nurse status must do is apply to the Department of Health. The application must be completed and a fee is charged (not to exceed \$150.00) for this process. There is also a separate fee for the NCLEX exam, which should not exceed \$75.00

In addition to the application and fees the following items must be submitted to complete the process:

- ✓ The individual must pass the national exam (NCLEX) to be granted a license. In the event that an individual fails the exam three consecutive times, they shall be required to complete a board-approved remedial course before the applicant will be considered for reexamination. The individual is then able to retake the exam an additional 3 times. The applicant will need to take the exam within 6 months of completing the remedial course. (Florida Statute 464.008) As of 1989- statewide criminal background check through the Department of Law Enforcement.
- ✓ A high school diploma or the equivalent.
- ✓ Completed the requirements for graduation from an approved nursing school program, or the equivalent, as determined by the board.
- ✓ Good mental and physical health.
- ✓ The ability to communicate English.



Another avenue to procure licensure is by endorsement. This process ensures the applicant already holds a valid nursing license to practice professional or practical nursing in another state. An application must be submitted to the board for approval with a fee that is not to exceed \$100.00. Additionally, licensure requirements in the other state must be equivalent to, or more stringent than the examination that is given in Florida.

A set of fingerprints must be submitted with appropriate payment to the Department of Law Enforcement for a statewide criminal check and this information will be forwarded to the Federal Bureau of Investigation for a national criminal history check of the applicant. Then the Department of Health will review the information and issue a license to the individual who has met all the requirements. In the event that an applicant has a criminal history, the application shall be referred back to the board to determine if a license shall be granted and under what conditions. (Florida Statute 464.009)

## Disciplinary Action:

Once an individual has been issued a professional or practical nursing license, the nurse needs to be aware of the circumstances that can cause disciplinary action or even loss of the privilege of licensure. And although nursing education programs stress that licensing boards can take action against misconduct or negligence, few fully understand the extent of authority that these boards maintain. Many nurses believe that the board of nursing exists to act as an advocate for the nurse; however the opposite is actually true. **The mission of the board of nursing is to protect the public.** This is best accomplished by monitoring the actions of nurses to ensure clinical competence, continuing education, good moral character and the ongoing absence of a criminal record.

Administrative policy dictates that the board will investigate every complaint that it's made aware of. Concerns may be brought to their attention via patients or their families, employers and even coworkers. Self-reporting of some violations is also mandated in Florida and the licensee's obligation to do so is clearly spelled out.

Once a complaint has been filed, the board will conduct a full investigation. Often the nurse will not be able to view the actual complaint or be informed of who filed the complaint until the board has completed the investigation phase. The resolution of a probe may be a long process, which often extends over months; even over a year in some cases.

The resulting board's ruling is considered public information and may be published on the state's disciplinary website or even in the newsletter. Obviously, this publication of disciplinary information can affect a nurse's potential for employment in healthcare. Even if the license has been restored, just having the board take disciplinary action against a nurse can effectively end one's career. Again this is a reminder that the obligation of the board is to protect the public and the state has the necessary authority to take whatever action it deems necessary to do so.

Many nurses are also under the misunderstanding that the board is only concerned with their clinical competence. It also covers areas that extend outside the area of clinical practice, which includes the private conduct of a nurse. Some of the more common infractions include failure to meet continuing education requirements, lying on the application for licensure, not wearing an ID badge that is clearly visible with their name and title displayed as well as failure to notify the board of an address change.

Conduct that reflects questionable judgment, impairment, or lapses in moral character may suggest to the board that a nurse poses a potential threat to the health, safety, and welfare of the public. Driving under the influence or the use of recreational or illegal drugs may lead to discipline, even if such activities occur while the nurse is on vacation or out of state. Attendance problems related to alcohol or drug use may also lead to license discipline.

As discussed above, the board may take disciplinary action against a nurse for a variety of reasons. Initial complaints fall into categories such as "professional misconduct" which indicates issues like unsafe practice or illegal behavior. The

potential list is long and takes into consideration anything the board may feel is outside the bounds of what it considers acceptable.

The following list contains actions that may lead to disciplinary action:

- ❖ Practicing outside of one's authorized scope
- ❖ Failure to adequately monitor those to whom care has been delegated
- ❖ Practicing while impaired
- ❖ Incompetence
- ❖ Criminal convictions and failing to notify the board of them
- ❖ Negligence
- ❖ Failure to practice mandatory reporting
- ❖ Practicing on a suspended or expired license
- ❖ Falsifying medical chart information
- ❖ Failure to cooperate with a nursing board investigation
- ❖ Privacy/confidentiality violations
- ❖ Patient abandonment
- ❖ Sexual misconduct with patients
- ❖ Improper infection control practices
- ❖ Inadequate documentation
- ❖ Chronic abuse of drugs or alcohol
- ❖ Refusal to care for a patient due to their race or religion
- ❖ Asking for money (to borrow etc.) from patient
- ❖ Stealing supplies, equipment or medications from an employer



## **Specific Issues:**

In 2013, the most common types of disciplinary action taken against 360 Florida nurses include:

- ❖ Suspension of the nursing license (58%)
- ❖ Voluntary surrendering of the nursing license (20%)
- ❖ Revoking of the nursing license (6.5%)

## Impaired Nurses:

Also closely examined by the board are situations that involve an impairment of the licensed nurse. According to the American Nurses Association, approximately 8% of nurses are impaired while on duty. Other numbers have placed the impairment rate as high as 12%. While nurses are not at a higher risk than the general public to develop addictions, they do have greater access to drugs in their work environment. It is estimated that about 1/3 of the impaired nurses end up being disciplined for their addiction annually. The nursing board is required to investigate all complaints regarding substance abuse in the licensed nurse, even if patients have not been harmed. The following is a list of common misconception that are addressed in intervention programs-

**Myth:** Impaired nurses use only street drugs.

**Truth:** Many substance-abusing nurses use everyday medications encountered in the workplace as well as common street drugs. The problem may begin by simply taking a patient's medication for a headache or back pain or to cope during a stressful shift. A substance-abusing nurse may substitute saline for injectable medications such as Demerol, morphine sulfate, and codeine, or dilute liquid medications after consuming some of it. Legal drugs are as harmful as illegal drugs.

**Myth:** Impaired nurse have a long history of drug or alcohol abuse.

**Truth:** Although many substance-abusing nurses have a history of long-term drug or alcohol abuse, a recent stressful life event such as a divorce, accident, or illness can lead to drug abuse as a coping mechanism.

**Myth:** Impaired nurses are easy to recognize.

**Truth:** There are specific signs and symptoms of a substance-abusing nurse, but the nurse may take extra precautions to avoid detection.



**Myth:** Drug addiction is voluntary.

**Truth:** Drug addiction is a compulsive behavior affecting the brain. It may be the result of an emotional or abusive family situation, poor choices, loss of support systems, excuse for behaviors, seeking an adrenaline rush, family history of addiction, enabling behavior, unstable lifestyle, denial, or other factors.

**Myth:** Combining drugs is not harmful.

**Truth:** Combining drugs can lead to disastrous consequences such as permanent physical impairment or death.

**Myth:** Addicts cannot recover and only need treatment for a couple of weeks.

**Truth:** Short-term in-patient programs should be at least 21 days. It is important to have follow-up supervision for physical and emotional support. The length of treatment and the willingness of the nurse are the best predictors for success. Nurses who remain in treatment for at least a year are twice as likely to be drug free, but the struggle for recovery will last a lifetime. Impaired nurses can make a complete recovery if given support and opportunity and they have a desire to recover.



**Myth:** Addicts have to want treatment and can't be forced into it.

**Truth:** In most cases the substance-abusing nurse resists entering a treatment program. The main reasons for entering treatment are a court order and peer pressure, management, and family member encouragement.

**Myth:** Alcoholics can sober up quickly.

**Truth:** It takes about three hours, depending on the person's weight, to sober up. Reporting to work after attending a party and consuming alcohol is a recipe for disaster. (American Nurse Today, Impaired Nurse, Aug 2011)

It is important that nurses are educated on the signs of impairment so they can recognize potential substance abuse issues and be prepared to take the necessary

steps to report their concerns. Nurses have a legal as well as ethical responsibility to report in order to keep patients safe from impaired nurses.

There are many ways that nurses can divert medications while in the workplace. Most commonly the medication is signed out to the patient and either not given at all or a placebo is administered. This obviously becomes an ethical issue as well a legal one. Nurses can get very creative in the diversion process as evidenced by a nurse in Minnesota who routinely peeled the pain patches (fentanyl) off of his patients and then placed them on his own tongue for an hour before replacing the patches back on the patient. The nurse admitted that he carried out this practice at least 3-4 times a week as well as stealing at least 10 tablets of narcotics every week for over a year. (PB Post 11/29/14) It is important for nurses to keep in mind that they may actually be saving a co-workers life by reporting suspicious behavior as it may lead to successful treatment of the addiction.

The Florida Intervention Project for Nurses (IPN) was established in 1983. Florida was the first state in the nation to offer a program aimed specifically at meeting the complex needs of nurses who are suffering from substance abuse. It does not fall under the domain of the board of nursing and a nurse may actually successfully complete the program without the board being informed. Only 20% of nurses in the program have been referred by the board, while the other 80% are participating in the program due to self- enrollment or by employer referral. Nurses who enter the IPN program will find an organized system that includes assessment, treatment intervention and ongoing monitoring. It is only when the nurse refuses to participate or shows no progress that a subsequent report is filed to the Department of Health. In addition to protecting the public from impaired nurses the overall goal is to assist the nurse to recovery status so that he/she can continue to practice and maintain licensure. If a nurse is found guilty 3 separate times of drug abuse violations he or she will lose their license permanently.

## **Delegation:**

Another legal concern is in the area of delegation. The professional nurse today has more responsibility than ever before and is tasked with collecting data about patient's conditions and then must decide how to best delegate out the assignments to provide competent care while maximizing available resources. Delegation is an important skill that can have serious consequences if not done properly, yet is not a skill that is closely monitored like other clinical abilities. Therefore it is imperative for the nurse to understand the nurse practice act guidelines for safe delegation. As healthcare costs continue to rise, there will be a greater number of unlicensed personnel who are providing care that was previously the sole responsibility of the nurse. The ultimate accountability for providing competent care still rests with the nurse so delegation must be a well thought out duty.

This function is best accomplished by breaking it down into 3 steps:

✓ Step 1-Assessment and Planning

In this step the nurse must assess the needs of the patient and decide who will be best able to safely carry out the components of competent care. This means the RN must match the skills of the staff (LPN or nursing assistant) with the patient care need. This task needs to be one that the person is qualified to perform. It is important to remember that a CNA may not provide any care that requires nursing level assessment or evaluation, nor can a CNA delegate their assignment to others.



✓ Step 2 – Communication

Good communication is essential to effective delegation and the delivery of competent care. If an RN assigns a nursing assistant to turn a dying hospice patient every 2 hours and does not specify that this action is to be accomplished in order to *mobilize airway secretions* and *keep the airway patent* during the dying process, the assistant may feel this action is being done to prevent skin breakdown which is not a priority when death is ensuing. This seemingly simple

delegation task would have failed because if the purpose for it was not adequately communicated. Obviously the communication between the RN and other personnel needs to be an ongoing process with clear expectations that are set early in the process. Mindful communication involves more than knowing just the steps of care involved. Mindful communication allows for a dynamic process that allows the care process to be directed towards individual patient situations.

✓ Step 3 – Supervision and Monitoring

This step requires the nurse to determine the amount of supervision that will be required to oversee the assigned task. The RN must provide oversight by monitoring performance of the task and assuring that the standard of practice is being maintained. This may be accomplished through direct or indirect monitoring of the assignment. If indirect monitoring is utilized, the RN must be readily available to provide assistance if needed. Finally, evaluation and feedback of the delegated tasks and desired outcomes completes the project and ensures the success of the delegation process.

## **Abandonment:**

Once the nurse has accepted a patient assignment, it becomes her obligation to provide competent care that is based on a written or oral account of the patient's plan of care. This nurse-patient relationship does not end until the nurse hands off care to another nurse to continue the care assignment. If the assignment has not been accepted for whatever reason, there is not a duty to treat. When a nurse accepts a patient assignment, a nurse-patient relationship is thereby established. Basically abandonment occurs when the nurse severs the nurse patient relationship without giving reasonable notice to another individual to continue to provide nursing care. Abandonment can lead to charges of unprofessional conduct and may place the professional license in jeopardy.

If a nurse accepts an assignment and then leaves the area without the proper transfer of care to another licensed individual, then abandonment becomes an issue. These situations can be found in all areas including the emergency department, operating room, medical or surgical units and critical care. Also included in the commitment to patient care is home care and hospice nursing. Any time the RN or LPN withdraws their service without appropriate follow through impairs the delivery of professional care and places a patient in potential danger.

Although these circumstances are fairly evaluated on an individual basis, there are certain situations which do not necessarily constitute abandonment. A nurse may refuse to accept an assignment because he or she feels that the task exceeds their scope of practice, or is too exhausted to provide competent care. This also includes refusing to work additional hours beyond their posted work schedule.

If a nurse refuses to accept an assignment based on unsafe staffing ratios, the nurse must put the objections down in writing for the nurse supervisor or director. It is important to specifically document the concern of inadequate staff present to manage the patient census and acuity level. Each and every time these situations occur, they need to be documented as such. The nurse should also note that in the future- unsafe assignments will not be accepted. This helps to protect the nurse from facility retaliation. *Ultimately, the nurse has the right to decline a work assignment that she does not feel can be safely carried out.* Each nurse should be familiar with the policies within their organization and with the proper chain of command to follow when faced with these challenges. The health care facility also has the obligation to provide competent care to patients as the liability of the nurse often becomes the liability of the organization.



## **Documentation:**

Documentation is anything that is written or printed that pertains to the care of the patient. It is legal document and is relied on as a record of proof that the appropriate care was given and standards were carried out. It is considered to be a vital part of any professional practice. The purpose is to provide evidence that medical care is necessary as well as to describe the response to the care that was administered.

Good documentation also assists to coordinate the plan of care among various levels of healthcare professionals. It is an adjunct to plan interventions and evaluate the patient's progress.

These clinical records are reviewed frequently to ensure the facility is meeting the standards for compliance. Payment to the facility from various third party payers may depend on the accuracy of these records.



Good documentation standards include:

- ✓ Use of standardized abbreviations only
- ✓ No erased or scratched out entries
- ✓ Any corrections need to be date and timed appropriately
- ✓ Charting needs to be clear, through and precise
- ✓ Use definite terms when documenting, rather than vague phrases
- ✓ Document baseline and variant observations
- ✓ Document responses to treatments and medications
- ✓ Keep in mind that if you did not document it, it was not done. If it was not done then you were negligent.

## **Exceptions to the Nurse Practice Act:**

**464.022 Exceptions.**—No provision of this part shall be construed to prohibit:

- (1) The care of the sick by friends or members of the family without compensation, the incidental care of the sick by domestic servants, or the incidental care of noninstitutionalized persons by a surrogate family.
- (2) Assistance by anyone in the case of an emergency.
- (3) The practice of nursing by students in approved schools of nursing.
- (4) The practice of nursing by graduates of prelicensure nursing education programs listed in s. 464.008(1)(c), pending the result of the first licensing examination for which they are eligible following graduation, provided they practice under direct supervision of a registered professional nurse. The board shall by rule define what constitutes direct supervision.
- (5) The rendering of services by nursing assistants acting under the direct supervision of a registered professional nurse.
- (6) Any nurse practicing in accordance with the practices and principles of the body known as the Church of Christ Scientist; nor shall any rule of the board apply to any sanitarium, nursing home, or rest home operated in accordance

with the practices of the body known as the Church of Christ Scientist.

(7) The practice of any legally qualified nurse or licensed attendant of another state who is employed by the United States Government, or any bureau, division, or agency thereof, while in the discharge of official duties.

(8) Any nurse currently licensed in another state or territory of the United States from performing nursing services in this state for a period of 60 days after furnishing to the employer satisfactory evidence of current licensure in another state or territory and having submitted proper application and fees to the board for licensure prior to employment. If the nurse licensed in another state or territory is relocating to this state pursuant to his or her military-connected spouse's official military orders, this period shall be 120 days after furnishing to the employer satisfactory evidence of current licensure in another state or territory and having submitted proper application and fees to the board for licensure prior to employment. The board may extend this time for administrative purposes when necessary.

(9) The rendering of nursing services on a fee-for-service basis, or the reimbursement for nursing services directly to a nurse rendering such services by any government program, commercial insurance company, hospital or medical services plan, or any other third-party payer.

(10) The establishment of an independent practice by one or more nurses for the purpose of rendering to patients nursing services within the scope of the nursing license.

(11) The furnishing of hemodialysis treatments in a patient's home, using an assistant chosen by the patient, provided that the assistant is properly trained, as defined by the board by rule, and has immediate telephonic access to a registered nurse who is licensed pursuant to this part and who has dialysis training and experience.

(12) The practice of nursing by any legally qualified nurse of another state whose employment requires the nurse to accompany and care for a patient temporarily residing in this state for not more than 30 consecutive days, provided the patient is not in an inpatient setting, the board is notified prior to arrival of the patient and nurse, the nurse has the standing physician orders and current medical status of the patient available, and prearrangements with the appropriate licensed health care providers in this state have been made in case the patient needs placement in an inpatient setting.

(13) The practice of nursing by individuals enrolled in board-approved

remedial courses. (Fla Statute 464.022)

## **Ethics In Nursing:**

The Nurse Practice Act directs nurses to act in an ethical manner but does not offer specific mandates on what defines ethical behavior. A simple definition of ethics that applies to all individuals is *the difference between right and wrong known by human reason alone*. Whereas guidelines are helpful to instruct on how we should behave they do not tell us what is right and wrong. Each person has to decide for themselves what the framework is for making appropriate individual decisions. The nursing profession has always had the ethical obligation to serve others without self-interest. It is expected that the nurse will act in the best interest of the patient, even if the nurse does not agree with the patient's choice. Today's nurse is faced with many challenges that affect healthcare as a whole.



One is the fact that Americans are living longer than ever which presents ethical dilemmas on a daily basis. We have the technology available to keep patients alive indefinitely by placing them on life support measures which often includes ventilators, tube feedings and life sustaining medications. We save one life but at times, that creates another situation. Lack of brain activity or even a prolonged comatose state often leaves nurses wondering if technology is the best option for certain patients if they will never return to a productive life. Usually the nurses who are newest to the profession are the ones that struggle the most with ethical issues. For example a nurse may be hesitant to give increasingly large doses of morphine to a dying patient in distress if she feels that it will hasten the death. The nurse may feel that ultimately she was the cause of his death, and not the disease process itself. Thankfully, experience often brings more confidence, knowledge and wisdom to the new nurse.

The nurse needs to understand the importance of respecting the cultural differences, beliefs and values of others. Cultural diversity training is helpful to educate nurses on how to best honor the wishes of the patient if the nurse does not feel it is the right choice. For example, a Jehovah Witness patient may choose to refuse blood administration, even in critical situations. But as with all patients, is ultimately their right to choose and refuse treatments. Nurses should be familiar with how to access the Ethics Committee in the facilities where they work. The committee can be invaluable in helping the patients, families and staff to make difficult decisions that are in the best interest of the patient. These measures can help to insure the nurse is being a good patient advocate as well as practicing good nursing ethics.

### **License Renewal:**

Once a nurse has managed to obtain and hold on to licensure, the renewal process must be followed closely as the requirements for renewal change periodically and the nurse is responsible for submitting the correct continuing education credits. All active Florida nurses are required to renew their license every 2 years. Renewal notices are sent out prior to the expiration date. A total of 24 hours of approved credit hours are needed to submit for renewal.

Renewal notices are sent out at least 90 days before the expiration date. If a renewal notice does not arrive, the professional is still required to renew the license by the expiration date. Currently the professional nurse must meet the following continuing education requirements:

Nurses are required to complete 24 hours of appropriate continuing education (CE) during each renewal period, including two (2) hours relating to prevention of medical errors. In addition to these 24 hours of general CE, each nurse must complete two (2) hours of domestic violence CE every third renewal for a total of 26 hours. For initial licensure, RNs must complete one (1) hour of HIV/AIDS (one time requirement) and a two (2) hour course relating to prevention of medical errors.

**\*\*\*New Requirement-** (this course)-Laws that Govern the Florida Nurse

Beginning with the biennium ending in 2015, each licensee shall complete a two-hour course on the laws and rules that govern the practice of nursing in Florida.

This will be *part of* the total 24 hours that are required each biennium.

Nurses are required to keep their certificates of attendance for at least 4 years in the event they are audited by the board. Many Florida education providers will enter a licensee's credits directly to an online verification system upon completion of an approved course. The state of Florida will utilize this online tracking system to verify the nurse has enough hours for relicensure. In the event that a discrepancy is noted, the nurse will be asked to produce certificates of attendance. The current tracking system is CE Broker and nurses can create an account through the broker to monitor their reported credits. Nurses who do not have proof of current licensure will not be permitted to work.



The broker can be found online at <https://www.cebroker.com>.

A nurse may choose to place their license on inactive status if they will not be practicing nursing in the upcoming 2 years. This license may continue to be renewed as inactive every 2 years, but failure to do so will place the license on delinquent status. During the time when the license is inactive, continuing education credits do not need to be maintained. However, in the event that a nurse decides to reactivate the license – a reactivation fee will need to be paid, as well as proof of education credits for the total period that the license was inactive.



If the license has been inactive for more than 2 consecutive licensure cycles and the nurse has not been practicing in any approved medical workplace for the 2 years that precede the reactivation request, then a refresher course will need to be completed. The approved course must contain at least 60 hours of classroom instruction and 96 hours of clinical experience.



## **Retired Volunteer Nurse Certificate:**

A retired RN or LPN who is interested in serving indigent, underserved or critical need populations may apply to the department for a retired volunteer nurse certificate. In addition to an application the nurse must show proof that he/she was licensed to practice nursing in the United States for at least 10 years and has not committed any acts that would constitute a violation during that time. The board may deny the application of any individual that is under investigation or has been prosecuted for an act that would constitute grounds for disciplinary action under statute 464.008 or 464.009.

In the event that a volunteer certificate is obtained, they may practice only in board approved settings such as public health facilities or nonprofit agencies. They must work under the direct supervision of county health director or a licensed physician, registered nurse practitioner or registered nurse. In order for various agencies to be approved they must submit the intended duties and scope of practice for the volunteer nurse. Training and skill validation of the volunteer nurse is also required to meet the various requirements.

The retired volunteer nurse may not:

- ✓ Administer controlled substances
- ✓ Supervise other nurses
- ✓ Receive monetary compensation

The volunteer nurse must continue to comply with the minimum standards of practice and may be subject to disciplinary action for violations of standard. Their scope of practice is limited to primary or preventative care. The volunteer nurse certificate will be valid for 2 years and the holder may reapply for a certificate as long as the eligibility requirements continue to be met. Mandated continuing education topics must be met prior to renewal. All costs of maintaining certification are the responsibility of the applicant.



## **Conclusion:**

The purpose of this educational program was to inform the professional licensed nurse about the responsibility that the Florida Board of Nursing has to enforce the laws and regulations that regulate the practice of nursing. This education content is designed to protect the nurse's license while also safeguarding the public from nurses who engage in unsafe or unethical practice behavior. A professional nurse is responsible for understanding the laws that govern their practice. Ignorance of the Nurse Practice Act and the Board of Nursing rules is a sure way to invite trouble. Unfortunately, a nurse may lose the right to practice nursing if their license is not in good standing. The Florida Nurse Practice Act was originally enacted to ensure that all nurses meet requirements for safe practice.

Understanding these statutes and laws will assist the nurse to practice in a safe, informed manner while following clear and consistent standards.

The information contained in this session is to be used as a learning tool to understand how the regulations work that governs professional accountability. However, it does not cover in detail, all of the components of the statutes and rules. Therefore each Florida nurse is legally responsible for understanding the laws and knowing how to access them when needed for verification.

Further information can be found at:

<http://www.floridanursing.gov>

Florida Board of Nursing: 1-850-488-0595