

Pursuant to questions posed to the staff of the Board of Nursing and reported by staff to the Board, the Nursing Practice Committee was charged by the Board to develop a proposed declaratory statement regarding nursing accountability and/or responsibility for patient care assignments and nursing care delivery. The Nursing Practice Committee reviewed the literature, including relevant provisions in the Nurse Practice Act and administrative rules, similar statements adopted by several other boards of nursing, the Professional Code of Ethics, articles in professional journals, and hypothetical cases. The Board reviewed an initial draft of the Nursing Practice Committee's recommended statement at the July, 1989 Board meeting and referred the statement back to the Committee for revision. After making editorial changes in the second draft at the September meeting, the Board adopted the following statement:

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DECLARATORY STATEMENT REGARDING NURSING ACCOUNTABILITY AND/OR
RESPONSIBILITY FOR PATIENT CARE ASSIGNMENTS AND NURSING CARE
DELIVERY (LAC 46:XLVII.3331.H)

Authority

Pursuant to La.R.S. 49:963 and LAC 46:XLVII.3321, the Board of Nursing is authorized to issue declaratory statements in response to requests for clarification of the effect of rules and regulations or of La.R.S. 37:911 et seq.

Questions

Is a registered nurse at risk for disciplinary action by the Board of Nursing if said nurse accepts an assignment which is beyond said nurse's area or level of competence?

Is a registered nurse at risk for disciplinary action by the Board of Nursing if said nurse assigns another person to perform a task/assignment which is beyond said person's realm of competence?

Board's Response

In order to safeguard life and health, the Nurse Practice Act requires that all licensees practice at a minimum safe and effective level. This provision mandates that: 1) the licensee who provides nursing care accept only duties and responsibilities within said licensee's area/level of competence; and 2) the licensee who assigns the duties and responsibilities ascertain the competence of the person(s) who will carry out the assignment. Any violation of this mandate may place the licensee at risk for disciplinary action.

It is the personal responsibility of each nurse to maintain competency in practice. When assigned to an unfamiliar unit or situation, the licensee must be provided an orientation appropriate to the assignment and the unit before providing nursing care. If this assigned nurse does not possess the specialized nursing skills and knowledge required to provide care on a particular unit, said nurse must notify the

appropriate supervisory nursing personnel. The nurse may provide basic nursing care, while specialized care is provided by nurses who do have the required additional knowledge and skills.

When an alleged violation of the Nurse Practice Act is reported to the Board, specific steps are taken to evaluate the report. Only written, signed complaints may be acted upon. Information is obtained from all possible sources in order to discover relevant facts and circumstances. Demonstrations of a pattern of unsafe practice is considered, as well as the potential risk to public safety. Patterns of conduct and level of risk to the public safety are paramount in the Board's determination of level of sanctions against the licensee.

Rationale

The Nurse Practice Act, La. R.S. 37:911 et seq., specifically the Purpose of the Act, Section 911, requires that licensees provide evidence of being qualified to practice nursing "[i]n order to safeguard life and health."

This requirement of competency is in keeping with the state's obligation to exercise its police power to protect the citizens' constitutional right to freedom from harm. The Board of Nursing, an arm of state government, "polices" the practice of registered nurses by determining that applicants for licensure meet competency requirements for nursing practice at a minimum safe and effective level and that licensees continue to practice at least at that level of competency.

The statutory definition of nursing practice, Section 913 (3), states that the practice of a registered nurse requires specialized knowledge and skill, which provision indicates that a degree of competency is required. Knowledge and skills required to practice at a minimum safe and effective level of competency will vary with different nursing situations.

The administrative rules of the Board define the activities which are listed in the statutory definition, and consequently, which the registered nurse must be competent to perform. Included in these activities is the burden of determining the competency of licensed and unlicensed persons to whom nursing functions/tasks will be delegated. Registered nurses who are responsible for staffing have a concomitant responsibility to make it possible for staff nurses to practice at the required level of competence.

The statutory grounds for disciplinary proceedings against a registered nurse, La.R.S. 37:921, include incompetence as a cause for the Board to sanction a registered nurse's license. Section 921, in part, provides that "negligence, habit or other causes" are the reasons for incompetence. In its administrative rules, specifically LAC 46:XLVII.3331.H, the Board gives fourteen examples of "other causes," among which is "[p]erforming duties and assuming responsibilities within the scope of the definition of nursing practice when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty." This assigns to the individual registered nurse the burden of practicing within one's realm of competency.

Other examples of "other causes" are "[f]ailure to utilize appropriate judgment in administering nursing practice," and "[delegating nursing care, functions, tasks, or responsibilities to others contrary to regulations." Indiscriminate reduction of personnel, or assignment of nursing personnel without evaluating the competency of individuals, may result in a situation where it is impossible to give safe and effective nursing care. For that reason, it is imperative that persons who make staffing decisions, as well as those who implement those decisions, have the necessary knowledge and skills to make safe, sound and legal decisions.

The American Nurses Association Code for Nurses, particularly the interpretive statement 5.3, states:

Nursing knowledge, like that in the other health disciplines, is rendered rapidly obsolete by mounting technological advances and scientific discoveries, changing concepts and patterns in the provision of health services, and the increasing complexity of nursing responsibilities. The nurse, therefore, should be aware of the need for continuous updating and expansion of the body of knowledge on which practice is based and should keep knowledge and skills current. The nurse should assess personal learning needs, should be active in finding appropriate resources, and should be skilled in self-directing learning. Such continuing education is the key to maintenance of individual competence.

Two major forces have complicated staffing responsibilities. The current nursing shortage has reduced available nursing resources, especially in agencies with a low level of incentives for the retention of nurses. Additionally, with the onset of prospective reimbursement for health services, cost-containment measures have been augmented in all affected service agencies. Because personal services represent the largest segment of the overall agency budget, decrease in the number of personnel is often the first approach to budgetary reduction. These complicating forces, however, do not exonerate licensees from the requirements of the Nurse Practice Act.