

# FLORIDA NURSING LAW

## 6 Contact Hours

**Alene Burke & Associates is approved as a provider of Continuing Education by the Florida Board of Nursing, Provider # 50-2502**

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### **PURPOSE OF THE COURSE:**

The purpose of this course is to provide nurses with a thorough knowledge of Florida State's statutes and rules that apply to nursing practice and nurses. Knowledge about Florida's statutes, rules and the Florida Board of Nurses protects nurses and more importantly, it protects the public.

The content includes information about the Florida State Nurse Practice Act, role differentiation among RNs, LPNs, and unlicensed personnel, such as nursing assistants, the roles and responsibilities of the Florida Board of Nursing, pertinent rules, continuing education mandates, disciplinary actions, the CNA Council, the Florida State Patient's Bill of Rights and Responsibilities, the Florida Center for Nursing, the Intervention Project for Nurses (IPN), and some basic legal principles associated with official records, documentation and delegation.

### **OBJECTIVES:**

At the conclusion of this course, the learner will be able to:

1. Detail and apply the components of the Florida State Nurse Practice Act into one's role and responsibilities.
2. Differentiate among the legally permissible roles of the registered nurse, the licensed practical nurse and unlicensed staff, such as nursing assistants and patient care technicians.
3. Discuss the composition of and the roles associated with the Florida Board of Nursing.

4. Relate some of Florida's statutes and nursing rules associated with licensure, license renewal, continuing education, disciplinary actions, the CNA Council, and some initiatives, such as the *Florida State Patient's Bill of Rights and Responsibilities*, *Florida Center for Nursing* and the *Intervention Project for Nurses (IPN)*.
5. Apply basic legal principles to documentation and official records.
6. Apply basic legal principles to delegation and supervision.

## **INTRODUCTION**

"Ignorance of the law excuses no man; not that all men know the law, but because 't is an excuse every man will plead, and no man can tell how to refute him." (Selden 1584-1654; Bartlett & Dole, 2000).

Nursing is a profession that is, and should be, regulated by itself. Our professional associations and organizations, such as the American Nurses Association and the National Council of State Boards of Nursing regulate the profession and they also lobby for legal, or statutory, regulation in order to protect the public and to maintain the integrity of the profession. As a result of these and other efforts, all states in our nation have laws and regulations aimed to protect the healthcare consumer and to insure safe nursing practice.

Knowledge of, and adherence to, the law is an imperative professional responsibility. This course will provide you with many aspects of the law and how these laws impact your practice, however, it is up to you to periodically check with the State of Florida in order to know when laws and rules are changed and/or added. Ignorance of the law is not defensible.

## **THE FLORIDA STATE NURSE PRACTICE ACT**

All states throughout the nation have their own nurse practice act. Generally speaking they are quite similar, although there may be some minor differences. These nurse practice acts, with few exceptions, include some basic definitions and some broad statements about nursing and its role.

Nurse practice acts generally define "professional nursing", "practical nursing" and "advanced practice", in addition to some other terms such as "nursing diagnosis" and "assessment". They differentiate between the roles of the professional nurse, or registered nurse, and that of the practical, or vocational, nurse. They do not list specific

tasks or specific roles for each of the two types of nurses, but they do provide the framework with which these roles can be legally executed.

The protection of the public is the primary purpose of nurse practice acts. The protection of the public is also the primary goal of the state boards of nursing throughout our country.

Nurse practice acts guide our practice as nurses. These acts legally define and defend what we can and cannot do as a registered professional nurse or a licensed practical, or vocational, nurse. Additionally, these acts protect and guide those who delegate aspects of care to others. For example, a registered nurse who supervises others and delegates patient care to licensed practical nurses and nursing assistants, must apply the principles and guidelines found in the nurse practice act, in addition to other factors such as competency validation, when they are assigning care. A nursing supervisor, assigning the admission of a new patient, must be aware of the fact that licensed practical nurses and nursing assistants can participate in the admission procedures for this patient, but only the registered professional nurse, or RN, can analyze admission data to decide upon a nursing diagnosis. Legally, nurses must function within the limits of their scope of practice, as defined by their nurse practice act.

The Nurse Practice Act for the State of Florida is, as follows:

*FLORIDA STATUTES CHAPTER 464*

*NURSING*

*PART I*

*NURSE PRACTICE ACT (ss. 464.001-464.027)*

“(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.

(b) "Practice of practical nursing" means the performance of selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm and the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist.

The professional nurse and the practical nurse shall be responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.

(c) "Advanced or specialized nursing practice" means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of post basic specialized education, training, and experience, are proper to be performed by an advanced registered nurse practitioner. Within the context of advanced or specialized nursing practice, the advanced registered nurse practitioner may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced registered nurse practitioner may also perform acts of medical diagnosis and treatment, prescription, and operation which are identified and approved by a joint committee composed of three members appointed by the Board of Nursing, two of whom shall be advanced registered nurse practitioners; three members appointed by the Board of Medicine, two of whom shall have had work experience with advanced registered nurse practitioners; and the secretary of the department or the secretary's designee. Each committee member appointed by a board shall be appointed to a term of 4 years unless a shorter term is required to establish or maintain staggered terms. The Board of Nursing shall adopt rules authorizing the performance of any such acts approved by the joint committee. Unless otherwise specified by the joint committee, such acts shall be performed under the general supervision of a practitioner licensed under chapter 458, chapter 459, or chapter 466 within the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance. The department may, by rule, require that a copy of the protocol be filed with the department along with the notice required by s. 458.348.

(d) "Nursing diagnosis" means the observation and evaluation of physical or mental conditions, behaviors, signs and symptoms of illness, and reactions to treatment and the determination as to whether such conditions, signs, symptoms, and reactions represent a deviation from normal.

(e) "Nursing treatment" means the establishment and implementation of a nursing regimen for the care and comfort of individuals, the prevention of illness, and the education, restoration, and maintenance of health.

(4) "Registered nurse" means any person licensed in this state to practice professional nursing.

(5) "Licensed practical nurse" means any person licensed in this state to practice practical nursing.

(6) "Advanced registered nurse practitioner" means any person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice.

(7) "Approved program" means a nursing program conducted in a school, college, or university which is approved by the board pursuant to s. 464.019 for the education of nurses."

## **FLORIDA STATE'S PATIENT'S BILL OF RIGHTS AND RESPONSIBILITIES (381.026)**

“(1) SHORT TITLE.--This section may be cited as the "Florida Patient's Bill of Rights and Responsibilities."

(2) DEFINITIONS.--As used in this section and s. 381.0261, the term:

(a) "Department" means the Department of Health.

(b) "Health care facility" means a facility licensed under chapter 395.

(c) "Health care provider" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, or a podiatric physician licensed under chapter 461.

(d) "Responsible provider" means a health care provider who is primarily responsible for patient care in a health care facility or provider's office.

(3) PURPOSE.--It is the purpose of this section to promote the interests and well-being of the patients of health care providers and health care facilities and to promote better communication between the patient and the health care provider. It is the intent of the Legislature that health care providers understand their responsibility to give their patients a general understanding of the procedures to be performed on them and to provide information pertaining to their health care so that they may make decisions in an informed manner after considering the information relating to their condition, the

available treatment alternatives, and substantial risks and hazards inherent in the treatments. It is the intent of the Legislature that patients have a general understanding of their responsibilities toward health care providers and health care facilities. It is the intent of the Legislature that the provision of such information to a patient eliminate potential misunderstandings between patients and health care providers. It is a public policy of the state that the interests of patients be recognized in a patient's bill of rights and responsibilities and that a health care facility or health care provider may not require a patient to waive his or her rights as a condition of treatment. This section shall not be used for any purpose in any civil or administrative action and neither expands nor limits any rights or remedies provided under any other law.

(4) RIGHTS OF PATIENTS.--Each health care facility or provider shall observe the following standards:

(a) *Individual dignity*.--

1. The individual dignity of a patient must be respected at all times and upon all occasions.
2. Every patient who is provided health care services retains certain rights to privacy, which must be respected without regard to the patient's economic status or source of payment for his or her care. The patient's rights to privacy must be respected to the extent consistent with providing adequate medical care to the patient and with the efficient administration of the health care facility or provider's office. However, this subparagraph does not preclude necessary and discreet discussion of a patient's case or examination by appropriate medical personnel.
3. A patient has the right to a prompt and reasonable response to a question or request. A health care facility shall respond in a reasonable manner to the request of a patient's health care provider for medical services to the patient. The health care facility shall also respond in a reasonable manner to the patient's request for other services customarily rendered by the health care facility to the extent such services do not require the approval of the patient's health care provider or are not inconsistent with the patient's treatment.
4. A patient in a health care facility has the right to retain and use personal clothing or possessions as space permits, unless for him or her to do so would infringe upon the right of another patient or is medically or programmatically contraindicated for documented medical, safety, or programmatic reasons.

(b) *Information.--*

1. A patient has the right to know the name, function, and qualifications of each health care provider who is providing medical services to the patient. A patient may request such information from his or her responsible provider or the health care facility in which he or she is receiving medical services.
2. A patient in a health care facility has the right to know what patient support services are available in the facility.
3. A patient has the right to be given by his or her health care provider information concerning diagnosis, planned course of treatment, alternatives, risks, and prognosis, unless it is medically inadvisable or impossible to give this information to the patient, in which case the information must be given to the patient's guardian or a person designated as the patient's representative. A patient has the right to refuse this information.
4. A patient has the right to refuse any treatment based on information required by this paragraph, except as otherwise provided by law. The responsible provider shall document any such refusal.
5. A patient in a health care facility has the right to know what facility rules and regulations apply to patient conduct.
6. A patient has the right to express grievances to a health care provider, a health care facility, or the appropriate state licensing agency regarding alleged violations of patients' rights. A patient has the right to know the health care provider's or health care facility's procedures for expressing a grievance.
7. A patient in a health care facility who does not speak English has the right to be provided an interpreter when receiving medical services if the facility has a person readily available who can interpret on behalf of the patient.

(c) *Financial information and disclosure.--*

1. A patient has the right to be given, upon request, by the responsible provider, his or her designee, or a representative of the health care facility full information and necessary counseling on the availability of known financial resources for the patient's health care.
2. A health care provider or a health care facility shall, upon request, disclose to each patient who is eligible for Medicare, in advance of treatment, whether the health care provider or the health care facility

in which the patient is receiving medical services accepts assignment under Medicare reimbursement as payment in full for medical services and treatment rendered in the health care provider's office or health care facility.

3. A health care provider or a health care facility shall, upon request, furnish a patient, prior to provision of medical services, a reasonable estimate of charges for such services. Such reasonable estimate shall not preclude the health care provider or health care facility from exceeding the estimate or making additional charges based on changes in the patient's condition or treatment needs.

4. A patient has the right to receive a copy of an itemized bill upon request. A patient has a right to be given an explanation of charges upon request.

(d) *Access to health care.*--

1. A patient has the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, handicap, or source of payment.

2. A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide such treatment.

3. A patient has the right to access any mode of treatment that is, in his or her own judgment and the judgment of his or her health care practitioner, in the best interests of the patient, including complementary or alternative health care treatments, in accordance with the provisions of s. [456.41](#).

(e) *Experimental research.*--In addition to the provisions of s. [766.103](#), a patient has the right to know if medical treatment is for purposes of experimental research and to consent prior to participation in such experimental research. For any patient, regardless of ability to pay or source of payment for his or her care, participation must be a voluntary matter; and a patient has the right to refuse to participate. The patient's consent or refusal must be documented in the patient's care record.

(f) *Patient's knowledge of rights and responsibilities.*--In receiving health care, patients have the right to know what their rights and responsibilities are.

(5) **RESPONSIBILITIES OF PATIENTS.**--Each patient of a health care provider or health care facility shall respect the health care provider's and health care facility's right to expect behavior on the part of

patients which, considering the nature of their illness, is reasonable and responsible. Each patient shall observe the responsibilities described in the following summary.

(6) SUMMARY OF RIGHTS AND RESPONSIBILITIES.--Any health care provider who treats a patient in an office or any health care facility licensed under chapter [395](#) that provides emergency services and care or outpatient services and care to a patient, or admits and treats a patient, shall adopt and make available to the patient, in writing, a statement of the rights and responsibilities of patients, including the following:

#### SUMMARY OF THE FLORIDA PATIENT'S BILL OF RIGHTS AND RESPONSIBILITIES

Florida law requires that your health care provider or health care facility recognize your rights while you are receiving medical care and that you respect the health care provider's or health care facility's right to expect certain behavior on the part of patients. You may request a copy of the full text of this law from your health care provider or health care facility. A summary of your rights and responsibilities follows:

A patient has the right to be treated with courtesy and respect, with appreciation of his or her individual dignity, and with protection of his or her need for privacy.

A patient has the right to a prompt and reasonable response to questions and requests.

A patient has the right to know who is providing medical services and who is responsible for his or her care.

A patient has the right to know what patient support services are available, including whether an interpreter is available if he or she does not speak English.

A patient has the right to know what rules and regulations apply to his or her conduct.

A patient has the right to be given by the health care provider information concerning diagnosis, planned course of treatment, alternatives, risks, and prognosis.

A patient has the right to refuse any treatment, except as otherwise provided by law.

A patient has the right to be given, upon request, full information and necessary counseling on the availability of known financial resources for his or her care.

A patient who is eligible for Medicare has the right to know, upon request and in advance of treatment, whether the health care provider or health care facility accepts the Medicare assignment rate.

A patient has the right to receive, upon request, prior to treatment, a reasonable estimate of charges for medical care.

A patient has the right to receive a copy of a reasonably clear and understandable, itemized bill and, upon request, to have the charges explained.

A patient has the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, handicap, or source of payment.

A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide treatment.

A patient has the right to know if medical treatment is for purposes of experimental research and to give his or her consent or refusal to participate in such experimental research.

A patient has the right to express grievances regarding any violation of his or her rights, as stated in Florida law, through the grievance procedure of the health care provider or health care facility which served him or her and to the appropriate state licensing agency.

A patient is responsible for providing to the health care provider, to the best of his or her knowledge, accurate and complete information about present complaints, past illnesses, hospitalizations, medications, and other matters relating to his or her health.

A patient is responsible for reporting unexpected changes in his or her condition to the health care provider.

A patient is responsible for reporting to the health care provider whether he or she comprehends a contemplated course of action and what is expected of him or her.

A patient is responsible for following the treatment plan recommended by the health care provider.

A patient is responsible for keeping appointments and, when he or she is unable to do so for any reason, for notifying the health care provider or health care facility.

A patient is responsible for his or her actions if he or she refuses treatment or does not follow the health care provider's instructions.

A patient is responsible for assuring that the financial obligations of his or her health care are fulfilled as promptly as possible.

A patient is responsible for following health care facility rules and regulations affecting patient care and conduct.”

The Spanish version of the Florida State Patient’s Bill of Rights and Responsibilities (381.026) can and should be accessed at

**<http://www.doh.state.fl.us/mqa/Profiling/billofrights.htm>**

## **THE FLORIDA BOARD OF NURSING**

According to Florida Statute 464.004:

“ (1) The Board of Nursing is created within the department and shall consist of 13 members to be appointed by the Governor and confirmed by the Senate.

(2) Seven members of the board must be registered nurses who are residents of this state and who have been engaged in the practice of professional nursing for at least 4 years, including at least one advanced registered nurse practitioner, one nurse educator member of an approved program, and one nurse executive. These seven board members should be representative of the diverse areas of practice within the nursing profession. In addition, three members of the board must be licensed practical nurses who are residents of this state and who have been actively engaged in the practice of practical nursing for at least 4 years prior to their appointment. The remaining three members must be residents of the state who have never been licensed as nurses and who are in no way connected with the practice of nursing. No person may be appointed as a lay member who is in any way connected with, or has any financial interest in, any health care facility, agency, or insurer. At least one member of the board must be 60 years of age or older.

(3) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years, and such members shall serve until their successors are appointed.”

## **RULES AND RULEMAKING AUTHORITY**

There is a distinct difference between administrative rules and statutes, or laws, like nurse practice acts. All Boards, including the Florida Board of Nursing, are given statutory power, by law, to adopt rules according to Florida Statutes 120.536(1) and 120.54.

In the state of Florida, administrative rules are found in the Florida Administrative Code. Nurses and nursing practice are addressed in Section 64B9. Rules are more specific than statutes. They enable the Board of Nursing, and other Boards, to generate regulations about how the laws, or statutes, will be implemented and enforced. For example, Florida statute requires a two-hour continuing education course on the prevention of medical errors for nurses and all other healthcare professionals. Rules have been generated by the Florida Board of Nursing, and other boards and councils, on what topics, in addition to those already stated in the statute, must be included in a class in order for it to be sufficient enough for nurses to renew their license with the State of Florida. Other rules, relating to nursing and nursing practice, include the required elements of a practice protocol for a nurse practitioner and the guidelines for IV therapy and supervision by a licensed practical nurse.

## **LICENSURE AND LICENSE RENEWAL**

Florida Statutes (464.008, 464.009) relate to the license application process and the other necessary requirements for a person to become a new licensee in the State of Florida through:

- the NCLEX, or *examination* process; or
- *endorsement* provided that the applicant has a “valid license to practice professional or practical nursing in another state or territory of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time” (Florida Statute 464.009)

Florida Statute 464.013 permits the State to renew licenses on a biennial basis and also to mandate that Florida licensed nurses have up to 30 hours of continuing education per biennium, that is, every 2 years. The rules require less than the “up to 30 hours” and only require 25 hours every two years.

## **LICENSE DENIALS AND DISCIPLINARY ACTIONS**

Florida law (464.018) states that:

“ (1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Procuring, attempting to procure, or renewing a license to practice nursing by bribery, by knowing misrepresentations, or through an error of the department or the board.

(b) Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.

(d) Being found guilty, regardless of adjudication, of any of the following offenses:

1. A forcible felony as defined in chapter 776.
2. A violation of chapter 812, relating to theft, robbery, and related crimes.
3. A violation of chapter 817, relating to fraudulent practices.
4. A violation of chapter 800, relating to lewdness and indecent exposure.
5. A violation of chapter 784, relating to assault, battery, and culpable negligence.
6. A violation of chapter 827, relating to child abuse.
7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.
8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

(e) Having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.03 or under any similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28.

(f) Making or filing a false report or record, which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the nurse's capacity as a licensed nurse.

(g) False, misleading, or deceptive advertising.

(h) Unprofessional conduct, as defined by board rule.

(i) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in chapter 893, for any other than legitimate purposes authorized by this part.

(j) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by the provisions of this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.

(k) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or the board; however, if the licensee verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the licensee is required to report such person only to an impaired professionals consultant.

(l) Knowingly violating any provision of this part, a rule of the board or the department, or a lawful order of the board or department

previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(m) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the nurse also provides services.

(n) Failing to meet minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the licensee is not qualified by training or experience.

(o) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) The board shall not reinstate the license of a nurse, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that such person has complied with all the terms and conditions set forth in the final order and that such person is capable of safely engaging in the practice of nursing.

(4) The board shall not reinstate the license of a nurse who has been found guilty by the board on three separate occasions of violations of this part relating to the use of drugs or narcotics, which offenses involved the diversion of drugs or narcotics from patients to personal use or sale.

(5) The board shall by rule establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision or probation, or conditions of probation or reissuance of a license."

## **UNPROFESSIONAL CONDUCT**

According to Florida Administrative Code, Section 64B9-8.005, there are several infractions considered unprofessional conduct.

Unprofessional conduct subjects the nurse to disciplinary action by the Florida Board of Nursing.

These infractions include:

- Inaccurate recording; or
- Misappropriating supplies, equipment or drugs; or
- Leaving a nursing assignment without proper notification of a supervisor (abandonment); or
- Practicing as a registered or practical nurse in the State of Florida without a current license; or
- Acts of negligence and gross negligence that constitute either acts of omission or commission; or
- Submitting a false attestation of 25 hours of continuing education when it has not be attended or completed, as per the laws and rule of the State of Florida; or
- Failure of an ARNP to comply with the registration and compliance requirements of the role; or
- Failing to perform according to the minimal standards of acceptable prevailing nursing practice, even when it does not cause actual harm or injury to a patient; or
- The falsification or altering of official records such as nursing progress notes, time records and employment applications; or
- Violating confidentiality; or
- Discriminating on the basis of creed, race, religion, sex, age or national origin; or
- Engaging in deceit, fraud or misrepresentation in taking the licensing exam; or
- Aiding and abetting the practice of nursing by any person not licensed to do so; or
- Impersonating another licensed practitioner or permitting another person to use one's own license or certificate for the purpose of nursing for compensation; or
- Exercising influence on a person in such a manner to exploit the patient for financial gain of the licensee or third party; or

- Testing positive for illicit drugs; or
- Violating a Florida Board of Nursing order entered in a licensing procedure; or
- Providing false or incorrect information to the employer regarding the status of a license.

### **CERTIFIED NURSING ASSISTANTS (CNAs)**

In the State of Florida, certified nursing assistants are regulated under the Florida Board of Nursing and the Council of Certified Nursing Assistants.

Florida Statute 464.2085 establishes this Council, its composition and its roles. The Council consists of five members, the chairperson, two registered nurses and one licensed practical nurse. The licensed practical nurse and at least one of the registered nurse members must be currently employed in a licensed nursing home. Additionally, the registered nurse member must also supervise CNAs in the nursing home as part of their employment.

The Council addresses areas of concern regarding CNAs in the State and makes the following types of recommendations to the Florida Board of Nursing:

- certification policies and procedures,
- rules for the training, education and certification procedures and processes for CNAs.

A certified nursing assistant has to take 18 hours of inservice training during each calendar year.

### **FLORIDA BOARD OF NURSING RULES:**

#### *Continuing Education*

Florida State rule 64B9-5.001 lists the continuing education requirements that are necessary for initial licensure and for the renewal of nursing licenses every two years, that is, each biennium.

All RNs and LPNs must successfully complete at least 25 contact hours of continuing education every two years, unless they are on active duty with the Armed Forces. Each contact hour is equivalent to 50 minutes of classroom, or live instruction, or 50 minutes of reading an independent home study or computer based course.

Of these 25 contact hours, one (1) contact hour must be for a domestic violence course, one (1) contact hour must be for an AIDS/HIV course and two (2) contact hours must be awarded for a preventing medical errors course. RNs and LPNs can take a one (1) contact hour course in the end of life care to substitute for either the AIDS/HIV requirement or the domestic violence requirements. For those getting their initial license in this State, 3 contact hours of AIDS/HIV must be taken. These mandatory courses must be approved by the Florida Board of Nursing.

The content of the State mandated AIDS/HIV course must include:

- infection control procedures;
- modes of transmission;
- prevention;
- clinical management; and
- Florida law relating to issues such as testing, confidentiality and treatment.

The required domestic violence course must address:

- statistics relating to the number of people that are victims of domestic violence;
- statistics relating to the number of people who are perpetrators of domestic violence;
- the signs of domestic violence; and
- interventions, including screening, assessment, and others, such as counseling, referrals to community domestic violence centers, advocacy groups, legal aid, shelters, follow up victim counseling, batterer counseling, and child protection services.

The content of the State mandated preventing medical errors course must include:

- factors that impact on the occurrence of medical errors;
- error prone situations and how to recognize them;
- processes, such as root cause analysis, to improve patient outcomes
- reporting responsibilities;

- special populations at risk and their safety needs; and
- educating the public about medical errors and how they can be prevented.

The content of the State mandated end of life course, when taken in lieu of AIDS/HIV or domestic violence, must include at least one of the following content areas:

- client rights in respect to decision making and self determination;
- palliative versus curative care;
- legal and ethical issues at the end of life;
- advance directives;
- emotional, psychosocial, spiritual issues;
- pain management and comfort;
- available options, alternatives and choices; or
- Florida law relating to end of life and end of life care.

### *LPNs and Intravenous Therapy*

#### *Continuing Education*

Chapter 64B9-12 outlines the limited role of LPNs in intravenous therapy. Some aspects of intravenous therapy are within the scope of practice for the LPN, provided the necessary education and competency validation are accomplished. There are also some aspects of intravenous therapy that are outside of the scope of practice for the LPN.

The educational component of IV therapy consists of 40 contact hours of education with a Florida Board of Nursing approved course and competency assessment/validation by a registered nurse.

LPNs can perform the following aspects of intravenous therapy, under the *direct supervision* of a registered nurse who is "on the premises and immediately physically available":

- The initiation of blood, blood products, plasma expanders, cancer chemotherapy, and investigation, research, drugs;
- Mixing intravenous solutions;

- IV pushes. Saline and heparin flushes can be done under the *direction* of an RN, less stringent than under the *direct supervision* of an RN.

Additionally, the following aspects of IV therapy can be done by an LPN under the *direction* of a registered nurse:

- Calculating flow rates and adjusting flow rates;
- Hanging hydrating fluids;
- Changing dressings, removing catheter and needles;
- Inspection of the intravenous site; and
- Observation and reporting of adverse reactions to IV therapy.

The required intravenous therapy class of 40 contact hours must minimally include a wide variety of topics including, but not limited to, the body's homeostatic and regulatory functions, venipuncture technique, infection control measures, fluids and electrolytes, parenteral nutrition, blood and blood products, local and systemic complications, preventing and treating local and systemic complications, methods of intravenous therapy administration and their advantages and disadvantages, and 4 contact hours of central line management if central lines will be used by the LPN and other content areas.

In addition to the required 40 contact hours of education, competency assessment and validation must be done and documented by a registered nurse qualified to perform this role prior to an LPNs performing aspects of intravenous therapy.

### **OFFICIAL RECORDS AND DOCUMENTATION**

The following documents are considered official records:

- Medical chart documentation, including nurses progress notes;
- Time records; and
- Employment records.

The falsification of official records is considered unprofessional conduct and, as such, subject to disciplinary action by the State Board of Nursing.

### **SUPERVISION AND DELEGATION**

Although the definitions and provisions of nurse practice acts across the country are broad and non-specific in respect to the scope of practice issues and tasks within and outside of nursing practice, they do offer guidance and direction about nursing practice. As you have probably noticed, certified nursing assistants and other assistive personnel, including non-licensed assistive personnel and "nurse extenders", are not included in the provisions of the Florida Nurse Practice Acts but they do delineate the roles of registered professional nurses, licensed practical nurses and advanced practice or specialized nursing practitioners.

The implications of supervision and delegation are loaded with challenges and legal concerns, particularly with the emergence of new classifications of nonlicensed, noncertified assistive personnel who are permitted to perform a role within a particular health care facility, but who are not licensed or certified by the state. These personnel have a wide variety of titles and roles, such as patient care aide, personal care assistant, patient care technician, telemetry aide, etc. These staff members are not regulated by the Florida Board of Nursing in terms of educational preparation, permissible scope of practice, licensure, certification or continuing education.

Some of the above job titles include traditional functions usually assigned to the nursing assistant, such as bathing and hygiene but they may also assume some other responsibilities such as venipuncture, EKGs, and/or the monitoring of telemetry. All of these titles and roles sometimes require the supervision of the nurse. As a result, it is the nurse - often the only independent practitioner, who is accountable for all aspects of care delegated to other members of the health care team, including not only unlicensed assistive personnel but also to others. This responsibility can lead to significantly disastrous results if supervision and delegation are not done according to provisions of the law and with other considerations.

The most frequently employed nonlicensed nursing staff member is the nursing assistant or CNA. CNAs are regulated by Florida State and the Florida Board of Nursing in terms of educational preparation, permissible scope of practice, and continuing education. They are not licensed but they are certified to practice in a specific role. They are sometimes referred to as unlicensed, assistive personnel (UAP).

Unlicensed personnel, certified and not certified, have appeared on the scene because the cost of health care has skyrocketed to such a degree that is no longer cost-effective to employ an all licensed or registered nursing staff. These healthcare workers cannot work

independently. They must be under the supervision of a registered nurse or, under certain conditions, an LPN. Unlicensed, assistive staff assist the nurse. They do NOT replace the nurse. Unlicensed personnel do not perform nursing functions; they perform nursing related functions, as delegated, under the supervision of the nurse.

Among the tasks that these unlicensed, assistive personnel can perform include:

- Assisting the nurse with the collection of data relating to the measurement and reporting of vital signs such as temperature, pulse, respiration, and blood pressure;
- Measuring height and weight;
- Recording intake and output;
- Observation and reporting changes in the patient's condition and reactions to care; and
- Interacting with patients, family members, significant others and other members of the healthcare team;
- Helping with the activities of daily living (ADL);
- Nonpharmacological comfort measures;
- Assistance with ambulation, transfers, range of motion, feeding, skin care to intact skin, and other tasks such as making beds and assisting with bowel and bladder functions.

The following tasks cannot be delegated to unlicensed assistive personnel (UAP). They all include aspects of care within the nursing process that require nursing judgment(s), according to Florida State Rules of the Board of Nursing Chapter 64B9-14.

Some examples of tasks that cannot be legally delegated to unlicensed assistive personnel include:

- Assessment;
- Nursing diagnosis;
- Establishment of patient care goals;
- The evaluation of how well the patient has or has not achieved established goals; and
- All other tasks outside of the scope of practice for a UAP; and

- All other tasks that the person is not competent to do.

Registered nurses supervise licensed practical nurses as well. This assignment should be consistent with their scope of practice, as stated in the Florida State Nurse Practice Act, their competencies, the policies and procedures of the facility and the needs of the patient.

Florida State Rules of the Board of Nursing 64B9-14.002 states that "total nursing care responsibility remains with the qualified nurse delegating the task or assignment for supervision."

Here are some basic rules to follow in reference to the assignment of care and the delegation of patient care responsibilities:

1. Assign and delegate only those tasks that are permissible according to state law, federal regulations and your facility's policies and procedures.
2. Because the person delegating is still ultimately responsible and accountable, closely supervise and follow up on delegated tasks. If something is done incorrectly or a patient is harmed, it is the person who has delegated that is ultimately responsible.
3. Assign the right person to the right job. Assess patients to insure that you are delegating the appropriate tasks based on the patient's condition and the abilities of the staff. Base assignments on the patient's current condition and the competency or skills of the staff members.
4. Monitor the patient for responses to the care provided by others and document those responses in a complete and timely manner.
5. Regularly follow up and monitor the performance of all those you supervise. Corrective action must be immediately taken if someone is not performing according to established standards.

## **LEGISLATIVE INITIATIVES: ADVANCING THE NURSING PROFESSION IN FLORIDA and PROTECTING THE PUBLIC**

*Florida Center for Nursing*

Our Florida Legislature is leading the nation in several areas, including the establishment of a Florida Center for Nursing, with the passing of Florida Statute 464.0195.

The goals and challenges before the Florida Center for Nursing consist of:

- addressing the nursing shortage, recruitment, retention, and utilization of nurses in the workforce;
- generating a statewide strategic to address nursing manpower in this state;
- establishing and maintaining a database on nursing supply and demand in the state that includes not only data relating to the current supply but also the projected future needs;
- recommending changes and strategies to meet the nursing shortage and to advance the image of nursing with recognition and rewards, such as magnet status and media support.

*The Florida Intervention Project for Nurses (IPN)*

The Intervention Project for Nurses (IPN), begun in 1983, is a nationally recognize program that protects the safety of the public by intervening when a nurse is potentially practicing in an unsafe manner as a result of alcohol and/or drug use or misuse or another physical or psychological impairment that makes them unsafe to practice.

Their objectives include:

1. "To ensure public health and safety through a program that provides close monitoring of nurses who are unsafe to practice, due to the use of drugs including alcohol and/or psychiatric, psychological or physical condition (chapter 455.261).
2. To provide a program for affected nurses to be rehabilitated in a therapeutic, non-punitive, and confidential process.
3. To provide an opportunity for retention of nurses within the nursing profession.
4. To facilitate early intervention, thereby decreasing the time between the nurse's acknowledgment of the problem and his/her entry into a recovery program.
5. To require the nurse to withdraw from practice immediately, and until such time that the IPN is assured that he/she is able to safely return to the practice of nursing.

6. To provide a cost effective alternative to the traditional disciplinary process.
7. To develop a statewide resource network for referring nurses to appropriate services.
8. To provide confidential consultations for Nurse Managers.”  
(IPN,2004)

The IPN Program has many services, including educating nurses throughout the state about their program and services. To learn more about IPN visit their website at <http://www.ipnfl.org>

## REFERENCES

Bartlett, John and Nathan Haskell Dole (2000). *Familiar Quotations*, 10th ed. Boston: Little, Brown, 1919; Bartleby.com, 2000. xix, 1454 p. 23 cm. [www.bartleby.com/100/](http://www.bartleby.com/100/). [January 19, 2005].

Florida State Administrative Rules of the Board of Nursing Chapter 64b9 (2004). Nurse Practice Act.

Florida State Administrative Rules of the Board of Nursing. Chapter 64b9 (2004).

Florida State Administrative Rules of the Board of Nursing. Chapter 64b9-8.005 (2004). Unprofessional Conduct. [January 19, 2005].

Florida State Administrative Rules of the Board of Nursing. Chapter 64b9-5002 (2004). Continuing Education. [January 19, 2005].

Florida State Administrative Rules of the Board of Nursing. Chapter 64b9-12 (2004).LPN and Intravenous Therapy. [January 19, 2005].

Florida State Administrative Rules of the Board of Nursing. Chapter 64b9-14 (2004).Delegation. [January 19, 2005].

Florida State Statutes (2004). Chapter 381.026. Patient’s Bill of Rights and Responsibilities.  
<http://www.doh.state.fl.us/mqa/Profiling/billofrights.htm>. [January 19, 2005].

Florida State Statutes (2004). Chapter 464. Nursing.  
[http://www.flsenate.gov/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0464/ch0464.htm](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0464/ch0464.htm). [January 19, 2005].

Florida State Statutes (2004). Chapter 464. 001- 027 . Florida Nurse Practice Act.

[http://www.flsenate.gov/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0464/ch0464.htm](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0464/ch0464.htm). [January 19, 2005].

Florida State Statutes (2004). Chapter 464. 004. Florida Board of Nursing.

[http://www.flsenate.gov/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0464/ch0464.htm](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0464/ch0464.htm). [January 19, 2005].

Florida State Statutes (2004). Chapter 464. 0195 . Florida Center for Nursing. [http://www.flsenate.gov/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0464/ch0464.htm](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0464/ch0464.htm). [January 19, 2005].

Florida State Statutes (2004). Chapter 464. 2085. Certified Nursing Assistants.

Nursing. [http://www.flsenate.gov/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0464/ch0464.htm](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0464/ch0464.htm). [January 19, 2005].

Intervention Project for Nurses (IPN). (2004) The Intervention Project for Nurses. <http://www.ipnfl.org>