

CHAPTER 27

THE SCOPE OF PROFESSIONAL NURSING PRACTICE AND ARNP AND CNM PROTOCOLS

I. INTRODUCTION

Advance registered nurse practitioners (ARNPs) and clinical nurse practitioners (CNPs) have their scope of practice defined by the Florida Nurse Practice Act, Chapter 464, Florida Statutes. This act was passed by the Florida Legislature to help ensure that every nurse practicing in Florida meets minimum requirements for safe practice. The requirements for each are discussed below. The requirements for licensure and penalties applicable for registered nurses (RNs) licensed practical nurses (LPNs) and other general types of nurses are discussed in an earlier chapter of this Manual.

The Nurse Practice Act also contains definitions that include the scope of practice for licensed registered nurses (sometimes referred to as "professional nurses"). Every nurse who practices in the state of Florida must be familiar with these definitions, as they define the limits on what he or she is allowed to legally do. It must also be remembered that advance registered nurse practitioner are also considered professional nurses, so the limitations and restrictions, including acts that may result in disciplinary action against them, also apply to them.

II. DEFINITIONS AND SCOPE OF PRACTICE

The Florida Nurse Practice Act, Section 464.003, Florida Statutes, provides definitions and sets forth the scope of practice for nurses in Florida.

Section 464.003(3)(e), Florida Statutes, defines "nursing diagnosis" to mean "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."

Section 464.003(3)(f), Florida Statutes, defines "nursing treatment" to mean "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."

Registered Nurses are any persons licensed in Florida to practice professional nursing. The terms "professional nurse" and "registered nurse" are used interchangeably in Florida law, to mean the same thing. "'Registered nurse' means any person licensed in this state to practice professional nursing." Section 464.003(4), Florida Statutes.

Other definitions and the scope of practice of the different types of nurses are set forth below.

III. ADVANCED REGISTERED NURSES PRACTITIONERS

The Advanced Registered Nurse Practitioner (ARNP) is a nurse who, in addition to being licensed to practice professional nursing as defined above, has obtained postbasic specialized education, training, and experience and is certified by the Board of Nursing to perform advanced-level nursing acts. 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 ARNP may also perform acts of medical diagnosis and treatment, prescription, and operation.

Section 464.003(7), Florida Statutes, defines "advanced registered nurse practitioner" to mean any person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice, including certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners. Section 464.003(5)(d), Florida Statutes, defines "advanced or specialized nursing practice" to mean:

. . . [I]n addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of postbasic specialized education, training, and experience, are appropriately 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 must be advanced registered nurse practitioners; three members appointed by the Board of Medicine, two of whom must have had work experience with advanced registered nurse practitioners; and the State Surgeon General of the department or the State Surgeon General'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 must 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.

Advanced registered nurses may monitor and alter drug therapies, initiate appropriate therapies for certain conditions, order diagnostic tests and physical and occupational therapy, and perform additional functions as approved by the Board of Nursing.

The acts of the ARNP must be under the general supervision of a licensed physician, osteopath or dentist. The general supervision must include a protocol established by the supervisor which identifies the medical acts to be performed and the conditions for their performance. A copy of the protocol must be filed with the Department of Health. A copy of the section of Florida Statutes that deals with physician supervision of nurse practitioners is included as Appendix 27-1 to this chapter.

Florida statutes provide for three (3) ARNP specialties: certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners. Within each specialty, there are additional procedures that ARNPs are authorized to do.

IV. CLINICAL NURSE SPECIALISTS

Section 464.003(6), Florida Statutes, defines "clinical nurse specialist" to mean "any person licensed in this state to practice professional nursing and certified in clinical nurse specialist practice." Section 464.003(3)(c), Florida Statutes, defines "clinical nurse specialist practice" to mean:

[T]he delivery and management of advanced practice nursing care to individuals or groups, including the ability to:

1. Assess the health status of individuals and families using methods appropriate to the population and area of practice.
2. Diagnose human responses to actual or potential health problems.
3. Plan for health promotion, disease prevention, and therapeutic intervention in collaboration with the patient or client.
4. Implement therapeutic interventions based on the nurse specialist's area of expertise and within the scope of advanced nursing practice, including, but not limited to, direct nursing care, counseling, teaching, and collaboration with other licensed health care providers.
5. Coordinate health care as necessary and appropriate and evaluate with the patient or client the effectiveness of care.

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

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.
2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.
3. Order under the protocol preanesthetic medication.
4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.
5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.
6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.
7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.
8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.
9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.
10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate. Section 464.012(4)(a)

The certified nurse midwife may, to the extent authorized by an established protocol which has been approved by the medical staff of the health care facility in which the midwifery services are performed, or approved by the nurse midwife's physician backup when the delivery is performed in a patient's home, perform any or all of the following:

1. Perform superficial minor surgical procedures.

2. Manage the patient during labor and delivery to include amniotomy, episiotomy, and repair.
3. Order, initiate, and perform appropriate anesthetic procedures.
4. Perform postpartum examination.
5. Order appropriate medications.
6. Provide family-planning services and well-woman care.
7. Manage the medical care of the normal obstetrical patient and the initial care of a newborn patient. Section 464.012(4)(b), Florida Statutes.

The nurse practitioner may perform any or all of the following acts within the framework of an established protocol:

1. Manage selected medical problems.
2. Order physical and occupational therapy.
3. Initiate, monitor, or alter therapies for certain uncomplicated acute illnesses.
4. Monitor and manage patients with stable chronic diseases.
5. Establish behavioral problems and diagnosis and make treatment recommendations. Section 464.012(4)(c), Florida Statutes.

V. PENALTIES

The Florida Nurse Practice Act sets forth prohibited conducted by nurses. The list of prohibited conduct includes acts that constitute felonies under Florida law, as well as acts that may result in action against the nurse's license. First, the following acts constitute a felony of the third degree, punishable by fine or imprisonment:

1. Practicing advanced or specialized, professional or practical nursing, as defined in this part, unless holding an active license or certificate to do so.
2. Using or attempting to use a license or certificate which has been suspended or revoked.
3. Knowingly employing unlicensed persons in the practice of nursing.

4. Obtaining or attempting to obtain a license or certificate under this part by misleading statements or knowing misrepresentation.

Each of the following acts constitutes a misdemeanor of the first degree:

1. Using the name or title "Nurse," "Registered Nurse," "Licensed Practical Nurse," "Advanced Registered Nurse Practitioner," or any other name or title which implies that a person was licensed or certified as same, unless such person is duly licensed or certified.
2. Knowingly concealing information relating to violations of this part. Section 464.016, Florida Statutes.

Other restrictions and limitations on the conduct and practice of nurses in the state of Florida are more fully discussed in the other chapters of this Manual.

VI. PROTOCOLS FOR NURSE PRACTITIONERS

Nurse Sections 458.348, 464.003(3)(d) and 464.012(3) & (4), Florida Statutes, require nurse practitioners to have a written, signed protocol that outlines the scope of the duties he or she is allowed to perform and written restrictions on them. A copy of Section 458.348, Florida Statutes, is attached as Appendix 27-1 of this chapter. The format for a proper protocol, as published by the Florida Board of Nursing, is contained in Appendix 27-2 of this chapter. A sample of a detailed protocol for a Certified Nurse Midwife (CNM) is contained in Appendix 27-3 to this chapter. A sample of a detailed protocol for a Psychiatric ARNP is contained in Appendix 27-4 to this chapter.

Nurse practitioners may only legally practice as a nurse practitioner when he or she has a valid, current protocol on file. The protocol must be sent in and on file with the Board of Nursing and the Board of Medicine. **The nurse practitioner must file a new protocol or an addendum that shows that the old protocol has been renewed for the current licensure period, at the time her license is renewed, each time.** The address to which the nurse practitioner must send her protocol and any renewal protocols is:

ARNP Department
Florida Board of Nursing
4052 Bald Cypress Way, Bin #C02
Tallahassee, FL 32399-3252
(as of June 2008).

The nurse practitioner who practices without a protocol, with an expired protocol, or with a revoked protocol may receive discipline against his or her license. In addition she may be subject to discipline or prosecution for practicing beyond the scope of her practice or practicing medicine without a valid medical licenses. The Medicare Program, the Medicaid Program, and most insurance companies only allow payments to clinical nurse practitioners for services provided if they have a current protocol.

Therefore, if the nurse practitioner practices with an expired or revoked protocol, she is subject to having any payments made to her recouped by these third party payers, and possibly discipline, fines, civil monetary penalties, administrative actions and even criminal actions commenced against her for this.

It is exceptionally important for nurse practitioners and their supervisors to remember the following tips:

TIPS

1. Make sure you have a written protocol that is current.
2. Make sure the protocol is comprehensive and accurately describes what you are allowed to do.
3. Make sure that your protocol is signed and dated by both you and the physician.
4. Make sure that you mail a copy of the signed and dated protocol in to the Board of Nursing for inclusion in your licensure file.
5. Make sure you keep a copy of the protocol, showing the signatures and dates of both parties, at home with your other important papers.
6. Make sure that your protocol is renewed, in writing, with a properly dated and signed addendum page (or a new protocol that is dated and signed) each renewal period before the prior one expires. Remember, a new protocol or a renewal to an existing protocol must be prepared and filed with the Board of Nursing each time the ARNP's license is renewed.
7. Make sure that all drugs and medications you are allowed to prescribe, initiate therapy with, alter or discontinue, are listed, by their general categories.
8. Make sure that the protocol does not authorize you to prescribe any narcotics or other controlled substances. ARNPs are not allowed to prescribe narcotics or other controlled substances in Florida
9. Make sure that anytime the address of your practice changes, the address or location at which you are authorized to provide services changes, your physician's address or office changes, the name of your supervising physician changes, the status of your supervising physician changes, the scope of your duties change, any limitations on your practice change, or any other significant aspects of you duties change, you must amend your protocol and submit a new one to the Board of Nursing within 30 days.
10. Make sure that your employer has a copy of your current, signed, dated protocol (along with any changes, amendments, or renewals) on file in your personnel file or credentials

file.

11. Make sure you keep copies of all old protocols, including any amendments, changes or renewals, at home for at least five years after they expire, with your other important papers where you can easily find them if needed.

VII. COMMONLY ASKED QUESTIONS AND ANSWERS FOR ARNPS

The Board of Nursing has published the following commonly asked questions and answers for advance registered nurse practitioners as of June 2008:

Q: How long will it take to get my license?

A: Effective July 1, 2006, all specialties of Advanced Registered Nurse Practitioner applying for licensure in Florida must provide proof of National Certification. **Exception:** A one year provisional license may be issued to Certified Nurse Midwives and Certified Registered Nurse Anesthetists who have graduated from an out of state program within one year from the date of Florida application and who are not Nationally Certified. These applicants must provide original Verification of Successful Completion (VSC) and original transcript(s).

Q: What do I need to send [in to the Department of Health, Board of Nursing to become licensed]?

A: If you are a CRNA or CNM, send a notarized copy of your current certification marked as a "true and correct copy" with your application. For those not yet certified and for all other specialties, order an official and final (direct from the school) copy of your transcript to come directly to the Board office. Also, fill out the top portion of the Verification of Successful Completion form and send it to your school for completion. When these are received in the Board office and are complete (and you have a current Florida RN license), your file will be reviewed.

Q: Do I need malpractice insurance to be licensed?

A: Yes, in order to issue your advanced practice certificate, you will need to show proof of malpractice or reason for exemption. If an employer is going to supply the insurance, have them send a letter on their letterhead stating that you are covered, naming the carrier and what is paid per incident and aggregate (minimum of \$100,000/300,000 respectively). If you are a state or federal employee or if you are not working as an ARNP in Florida, you must fill out the form for

exemption.

Q: How can I get an exemption from the Malpractice Insurance requirement?

A: Use the Malpractice Insurance Exemption form. Just print it out, complete the form and send it

Q: Do I need National Certification?

A: Effective July 1, 2006, all specialties of Advanced Registered Nurse Practitioner applying for licensure in Florida must provide proof of National Certification.

Q: Are all ARNP protocols reviewed or approved by the Board of Nursing?

A: The protocol is reviewed by the Board of Nursing.

Q: Should a copy of the protocol be kept at the practice site?

A: Yes, a copy of the original protocol and a copy of the notice required by section 458.348(1), F.S. should be kept at the site of practice of each party of the protocol. After the termination of the relationship between the ARNP and the supervising professional, each party is responsible for insuring that a copy of the protocol is maintained for future reference for a period of four (4) years. [Note: The editors recommend that you keep these for at least five years or longer.]

Q: Should the protocol state which medications can be prescribed?

A: Yes, you must list all medications that the supervising physician has agreed you may prescribe. You may want to use generic names and/or categories of medications instead of using trade names, i.e., antibiotics, antiemetics, etc.

Q: Can nurse practitioners have their own prescription pad?

A: Yes.

- Q: Do I need to apply for prescriptive privileges?
- A: No, writing of the protocols and approval of the collaborative practice physician gives you prescriptive privileges. You cannot prescribe controlled substances.
- Q: What type of information should be included in the prescription pad?
- A: Pharmacy rules require that all the information necessary to properly label the prescription container be included on the prescription. The pharmacist is required to put the prescriber's name on the medication label. Rule 64B16-28.402(1)(b). [Note: Please see the chapter in this Manual that discusses the legal requirements for writing prescriptions in Florida and for dispensing medications to patients].
- Q: Can a nurse practitioner write prescriptions for controlled substances?
- A: No, federal law requires that anyone prescribing controlled substances have a DEA license number. All prescriptions for controlled substances should be written and signed by a licensed physician.
- Q: Do I need a dispensing license?
- A: If it is in your protocols that you are to dispense medications for a fee, then you must contact the Board [of Nursing] office for an application. Dispensing is writing and filling a prescription and selling the medication to a patient. Giving samples is not dispensing. The dispensing license must also be renewed when renewing your dual RN/ARNP license.
- Q: Can ARNPs take courses that offer Continuing Medical Education credits?
- A: ARNPs may earn CME for up to half of their mandatory CE requirements.