

FLORIDA BOARD OF NURSING LAWS AND RULES

Audeanne D. Donaldson, PhD, MSN, RN
Plantation General Hospital

Objectives

Upon completion participants will be able to:

- Describe the legislative purpose for the Nurse Practice Act.
- Verbalize specific laws and rules related to the practice of nursing and nursing assisting.
- Identify the pertinent levels of nursing practice in the State and the general scope of practice of each.
- Discuss the general requirements for continuing licensure in the State.
- Differentiate between ethical and legal practice.
- Discuss the process for discipline related to nursing practice.
- Create a professional plan for career maintenance and development within the limits of the law.

Legislative Purpose

- The sole legislative purpose in enacting this part is to ensure that every nurse practicing in the state of Florida meets minimum requirements for safe practice.
- It is the legislative intent that nurses who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state. 464.002

Florida Administrative Code: Rule 64B9-5.013

The Florida Board of Nursing proposed a new rule to incorporate a requirement of continuing education on the laws and rules that govern the practice of nursing in Florida for Licensed Practical Nurses, Registered Nurses, Clinical Nurse Specialists, and Advanced Registered Nurse Practitioners. The rule became effective April 21, 2013.

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

Requirements for Continuing Licensure in the State

- Every person licensed shall be required to complete twenty-four contact hours of continuing education courses approved by the Board in the twenty-four months preceding each biennial renewal period as established by the Department.
- With the exception of the required courses in the prevention of medical errors and HIV/AIDS, applicants who become licensed in the second half of the biennium are exempt from this continuing education requirement for their first renewal.
- The Board will accept up to twelve contact hours for home study during a biennium.
- In lieu of completing a course in HIV/AIDS education as required or Domestic Violence a licensee may complete a course in end-of-life care or palliative health care.

Licensure Renewal Requirements RNs

- General Hours 22 - live or home study
- Medical Error 2 - May be live or home study
- Laws and Rules(New Requirement) 2 - The biennium in which the Laws and Rules course is due your general hours will total 20
- Domestic Violence 2 - Domestic Violence is required every third biennium and the hours are in addition to the 24 hours required for renewal

Licensure LPN

- General Hours 20 - live or home study
- Medical Error 2
- The biennium in which the Laws and Rules course is due your general hours will total 20
- Domestic Violence 2 - Domestic Violence is required every third biennium and is in addition to the 24 hours required for renewal

Licensure Renewal Requirements CNA

- In order to renew the CNA license at the end of the two year renewal cycle, CNAs are required to perform nursing-related services for monetary compensation within the last 24 consecutive months in order to remain on the registry.
- Licensees who fail to meet these requirements must reapply for licensure and comply with current laws and rules. Licensees who have become Null and Void or elected to Voluntary Relinquish their CNA license, must reapply for licensure and meet current requirements.

<http://www.floridasnursing.gov/renewals/certified-nursing-assistant/>

In-Service Training

- All CNAs must complete a minimum of 12 hours of in-service training each calendar year. Every 2 years, in-service training hours shall include, but are not limited to, the following areas:
 - Blood borne Pathogens, Infection Control
 - Domestic Violence
 - Medical Record Documentation and Legal Aspects Appropriate to Nursing Assistants
 - Resident Rights
 - Communication with cognitively impaired clients
 - CPR skills
 - Medical Error Prevention and Safety

The Florida Board of Nursing

The Board of Nursing is an active member of the National Council of State Boards of Nursing. The NCSBN website is an excellent tool for information relating to the NCLEX exam and about the global regulation of nursing.

Visit www.ncsbn.org to learn more.

The board proposes this rule to incorporate the requirement of continuing education on the laws and rules that govern the practice of nursing in Florida

64B9-5.013

<http://www.floridasnursing.gov/latest-news/national-council-of-state-boards-of-nursing/>

Regulation of Professions and Occupations

Duties and powers of the board.—The board shall maintain, or contract with or approve another entity to maintain, a state registry of certified nursing assistants. The registry must consist of the name of each certified nursing assistant in this state; other identifying information defined by board rule; certification status; the effective date of certification; other information required by state or federal law; information regarding any crime or any abuse, neglect, or exploitation as provided under chapter 435; and any disciplinary action taken against the certified nursing assistant.

REGULATION OF PROFESSIONS AND OCCUPATIONS

- The registry shall be accessible to the public, the certificate holder, employers, and other state agencies.
- The board shall adopt by rule testing procedures for use in certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants and specifying the scope of practice authorized and the level of supervision required for the practice of certified nursing assistants.

•

REGULATION OF PROFESSIONS AND OCCUPATIONS

- The board may contract with or approve another entity or organization to provide the examination services, including the development and administration of examinations.
- The board shall require that the contract provider offer certified nursing assistant applications via the Internet, and may require the contract provider to accept certified nursing assistant applications for processing via the Internet.
- The board shall require the contract provider to provide the preliminary results of the certified nursing examination on the date the test is administered. The provider shall pay all reasonable costs and expenses incurred by the board in evaluating the provider's application and performance during the delivery of services, including examination services and procedures for maintaining the certified nursing assistant registry.

Regulation of Professions and Occupations

- REGULATION OF PROFESSIONS AND OCCUPATIONS
[Chapter 464](#)
NURSING [View Entire Chapter](#) 464.012 Certification of advanced registered nurse practitioners; fees.— (1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department and submit proof that he or she holds a current license to practice professional nursing and that he or she meets one or more of the following requirements as determined by the board: (a) **Satisfactory completion of a formal post basic educational program** of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.

- (b) **Certification by an appropriate specialty board.** Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.
- (c) **Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills.** For applicants graduating on or after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

Why are there laws regulating nursing?

Nurse Practice Act

Nursing care poses a risk of harm to the public if practiced by professionals who are unprepared or incompetent, the state, through its powers, is required to protect its citizens from harm. That protection is in the form of reasonable laws to regulate nursing

Nurse Practice Act

Why are there laws regulating nursing?

The practice of nursing requires specialized knowledge, skill, and independent decision making. Nursing careers take widely divergent paths - practice focus varies by setting, by type of client, by different disease, therapeutic approach or level of rehabilitation. Moreover, nurses are mobile and sophisticated and work in a society that is changing and asymmetrical for consumers. The result is that the risk of harm is inherent in the provision of nursing care.

What are the Laws Related to Nursing?

- More than 100 years ago, state governments enacted laws which protect the public's health and welfare by overseeing and ensuring the safe practice of nursing.
- All states and territories have enacted a nurse practice act (NPA).
- Each state's NPA is enacted by the state's legislature.
- The NPA itself is insufficient to provide the necessary guidance for the nursing profession, therefore, each NPA establishes a board of nursing (BON) that has the authority to develop administrative rules or regulations to clarify or make the law more specific.

Nurse Practice Act

- Rules and regulations must be consistent with the NPA and cannot go beyond it.
- These rules and regulations undergo a process of public review before enactment.
- Once enacted, rules and regulations have the full force and effect of law.

Nurse Practice Act

Although the specificity of NPAs varies among states, all NPAs include:

- **Authority, power**, and composition of a board of nursing
- Education program standards
- Standards and scope of nursing practice
- Types of titles and licenses
- Requirements for licensure
- Grounds for disciplinary action, other violations and possible remedies

Why does a nurse need to know about the NPA?

- The practice of nursing is a right granted by a state to protect those who need nursing care. The guidelines of the NPA and its rules provide safe parameters within which to work, as well as protect patients from unprofessional and unsafe nursing practice.
- The act is amended as changes in scope of practice occur.
- The laws of the nursing profession can only function properly if nurses know the current laws governing practice in their state. **Ignorance of the law is never an excuse!**

Definitions

- "**Department**" means the Department of Health.
- "**Board**" means the Board of Nursing.
- "**Approved program**" means a nursing program conducted in a school, college, or university which is approved by the board
- "**Clinical training**" means direct nursing care experiences with patients or clients which offer the student the opportunity to integrate, apply, and refine specific skills and abilities based on theoretical concepts and scientific principles.
- "**Community-based clinical experience**" means activities consistent with the curriculum and involving individuals, families, and groups with the intent of promoting wellness, maintaining health, and preventing illness.

Definitions

"**Registered Nurse**" means any person licensed in this state to practice professional nursing.

"**Licensed Practical Nurse**" means any person licensed in this state to practice practical nursing.

"**Clinical nurse specialist**" means any person licensed in this state to practice professional nursing and certified in clinical nurse specialist practice.

"**Advanced Registered Nurse Practitioner**" means 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.

Definitions

- **“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:
Observation assessment, nursing diagnosis, planning, intervention, and evaluation of care

Definitions

- Health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.
- 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.
- The supervision and teaching of other personnel in the theory and performance of any of the above acts.

Definitions

"**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.
- The **promotion of wellness, maintenance of health, and prevention of illness** of others

The above acts must be done 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.

Definitions

“**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.

“**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.

Definitions

- **“Nursing judgment”** is the intellectual process that a nurse exercises in forming an opinion and reaching a conclusion by analyzing data.
- **“Education”** means a degree or certification of the UAP in a specific practice area or activity providing background and experience in theoretical or clinical aspects of that practice or activity.
- **“Training”** is the learning of tasks by the UAP through on the job experience or instruction by a nurse who has the education or experience to perform the task or activity to be delegated.

Requirements for Continuing Licensure

Renewal of License or Certificate.

- The department shall renew a license upon receipt of the renewal application and fee.
- The department shall adopt rules establishing a procedure for the biennial renewal of licenses.
- The board shall by rule prescribe continuing education not to exceed 30 hours biennially as a condition for renewal of a license or certificate. The criteria for programs shall be approved by the board.

Licensure

Any person desiring to be licensed as a registered nurse or licensed practical nurse shall apply to the department to take the licensure examination.

- Require statewide criminal records correspondence check through the Department of Law Enforcement.
- Must be in **good mental and physical health**
- Is a recipient of a high school diploma or the equivalent

- **Completed requirements for graduation from an approved program**, or its equivalent as determined by the board, for the preparation of registered nurses or licensed practical nurses
- **Successfully completed courses in a professional nursing program** which are at least equivalent to a practical nursing program may be used to satisfy the education requirements for licensure as a licensed practical nurse.
- Has the ability to **communicate in the English language**, which may be determined by an examination given by the department.

Licensure

- Applicants who pass the examination and provides proof of meeting the educational requirements specified in shall be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable. unless denied pursuant to s. 464.018
- **Any applicant who fails the examination three consecutive times,** regardless of the jurisdiction in which the examination is taken, shall be required to complete a board-approved remedial course before the applicant will be approved for reexamination.
- **After taking the remedial course, the applicant may be approved to retake the examination up to three additional times** before the applicant is required to retake remediation.

Licensure by Endorsement

The department shall issue the appropriate license by endorsement to practice professional or practical nursing to an applicant who, upon applying to the department demonstrates to the board that he or she:

- Holds 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
- Meets the qualifications for licensure and has successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the department
- Has actively practiced nursing in another state, jurisdiction, or territory of the United States for 2 of the preceding 3 years without having his or her license acted against by the licensing authority of any jurisdiction.
- Applicants who become licensed **must complete within 6 months after licensure a Florida laws and rules** course that is approved by the board.
- Once the department has received the results of the national criminal history check and has determined that the applicant has no criminal history, the appropriate license by endorsement shall be issued to the applicant.

Licensure by Endorsement

- Examinations and requirements from other states and territories of the United States shall be presumed to be substantially equivalent to or more stringent than those in this state.
- However, the board may, by rule, specify states and territories the examinations and requirements of which shall not be presumed to be substantially equivalent to those of this state.
- An applicant for licensure by endorsement who is relocating to this state pursuant to his or her military-connected spouse's official military orders and who is licensed in another state that is a member of the Nurse Licensure Compact shall be deemed to have satisfied the requirements and shall be issued a license by endorsement upon submission of the appropriate application and fees and completion of the criminal background check required under subsection

Licensure by Endorsement

- The applicant must submit to the department a set of fingerprints
- Payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.
- The Department of Health shall submit the fingerprints provided by the applicant to the Florida Department of Law Enforcement for a statewide criminal history check
- The Department of Health shall review the results of the criminal history check, issue a license to an applicant who has met all of the other requirements for licensure and has no criminal history, and shall refer all applicants with criminal histories back to the board for determination as to whether a license should be issued and under what conditions.

Licensure by Endorsement

- The department shall not issue a license by endorsement to any applicant who is under investigation in another state, jurisdiction, or territory of the United States for an act which would constitute a violation of this part or chapter 456 until such time as the investigation is complete, at which time the provisions of s. 464.018 shall apply.
- The department shall process and provide electronic notification when the application has been received and when background screenings have been completed, and shall issue a license within 30 days after completion of all required data collection and verification.
- This 30-day period to issue a license shall be tolled if the applicant must appear before the board due to information provided on the application or obtained through screening and data collection and verification procedures

Registered Nurse

“Registered Nurse” means any person licensed in this state to practice professional nursing.

- “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:
 - (a) 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.
 - b) 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.
 - (c) The supervision and teaching of other personnel in the theory and performance of any of the acts described in this subsection.

A professional nurse is responsible and accountable for making decisions that are based upon the individual’s educational preparation and experience in nursing.

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 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

Advanced or Specialized Nursing Practice

- 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 appropriately performed by an advanced registered nurse practitioner.
- 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 or the State Surgeon General's designee

<http://www.floridasnursing.gov/resources/>

Advanced Registered Nurse Practitioner

Means 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.

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.

Certification of Advanced Registered Nurse Practitioners

- The board shall provide by rule the appropriate requirements for advanced registered nurse practitioners in the categories of certified registered nurse anesthetist, certified nurse midwife, and nurse practitioner.
- An advanced registered nurse practitioner shall perform functions authorized within the framework of an established protocol that is filed with the board upon biennial license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol.
- The board shall review the protocol to ensure compliance with applicable regulatory standards for protocols.

Certification of Advanced Registered Nurse Practitioners

Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department and submit proof that he or she holds a current license to practice professional nursing and that he or she meets one or more of the following requirements as determined by the board:

- (a) Satisfactory completion of a formal post basic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.
- (b) Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.
- (c) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner.
- For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist

Certification of Advanced Registered Nurse Practitioners

The board shall refer to the department licensees submitting protocols that are not compliant with the regulatory standards for protocols.

A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

- (a) Monitor and alter drug therapies.
- (b) Initiate appropriate therapies for certain conditions.
- (c) Perform additional functions as may be determined by rule in accordance with s. 464.003(3)(d).
- (d) Order diagnostic tests and physical and occupational therapy.

Certified Nurse Practitioner

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

- Manage selected medical problems.
- Order physical and occupational therapy.
- Initiate, monitor, or alter therapies for certain uncomplicated acute illnesses.
- Monitor and manage patients with stable chronic diseases.
- Establish behavioral problems and diagnosis and make treatment recommendations.

Clinical Nurse Specialist

“Clinical nurse specialist” means any person licensed in this state to practice professional nursing and certified in clinical nurse specialist practice.

“Clinical nurse specialist practice” means the delivery and management of advanced practice nursing care to individuals or groups, including the ability to:

- (a) Assess the health status of individuals and families using methods appropriate to the population and area of practice.
- (b) Diagnose human responses to actual or potential health problems.
- (c) Plan for health promotion, disease prevention, and therapeutic intervention in collaboration with the patient or client.
- (d) 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.
- (e) Coordinate health care as necessary and appropriate and evaluate with the patient or client the effectiveness of care.

Clinical Nurse Specialist Practice

Means the delivery and management of advanced practice nursing care to individuals or groups, including the ability to:

- Assess the health status of individuals and families using methods appropriate to the population and area of practice.
- Diagnose human responses to actual or potential health problems.
- Plan for health promotion, disease prevention, and therapeutic intervention in collaboration with the patient or client.
- 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.
- Coordinate health care as necessary and appropriate and evaluate with the patient or client the effectiveness of care.

Certification of Clinical Nurse Specialists

- Any nurse seeking certification as a Clinical Nurse Specialist must apply to the department and submit proof that he or she holds a current license to practice professional nursing, a master's degree in a clinical nursing specialty, and current certification in a specialty area as a clinical nurse specialist from a nationally recognized certifying body as determined by the board.
- The board shall certify, and the department shall issue a certificate to, any nurse who fulfills the qualifications of this section - biennial renewal

CRNA Practitioner

In addition to the general functions specified in subsection (3), an advanced registered nurse practitioner may perform the following acts within his or her specialty:

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:

- 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.
- 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.

CRNA Practitioner

- Order under the protocol preanesthetic medication.
- 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.
- Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

CRNA Practitioner

- 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.
- Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.
- Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.
- Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.
- Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate

Certified Nurse Midwife

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:

- Perform superficial minor surgical procedures.
- Manage the patient during labor and delivery to include amniotomy, episiotomy, and repair.

Certified Nurse Midwife

- Order, initiate, and perform appropriate anesthetic procedures.
- Perform postpartum examination
- Order appropriate medications
- Provide family-planning services and well-woman care
- Manage the medical care of the normal obstetrical patient and the initial care of a newborn patient

Registered Nurse First Assistant

- 464.027 Registered nurse first assistant.— (1) LEGISLATIVE INTENT.—The purposes of this section are to: (a) Encourage the use of registered nurse first assistants who meet the qualifications of this section as “assistants at surgery” by physicians and hospitals to provide quality, cost-effective surgical intervention to health care recipients in the state.
- (b) Provide for reimbursement for the registered nurse first assistant from managed health care agencies, state agencies, workers’ compensation carriers, and private insurance companies.
- (2) DEFINITIONS.—As used in this section, the term: (a) “Perioperative nursing” means a practice of nursing in which the nurse provides preoperative, intraoperative, and postoperative nursing care to surgical patients.
- (b) “Recognized program” means a program that: 1. Addresses all content of the Association of Operating Room Nurses, Inc. Core Curriculum for the Registered Nurse First Assistant, and
- 2. Includes 1 academic year, defined as 45 hours of didactic instruction and 120 hours of clinical internship or its equivalent of 2 college semesters.
- (c) “Registered nurse first assistant

Registered Nurse First Assistant

QUALIFICATIONS.—A registered nurse first assistant is any person who:

- (a) Is licensed as a registered nurse under this part;
 - (b) Is certified in perioperative nursing; and
 - (c) Holds a certificate from, and has successfully completed, a recognized program.
-
- INSTITUTIONAL POWERS.—Each health care institution must establish specific procedures for the appointment and reappointment of registered nurse first assistant staff members and for granting, renewing, and revising their clinical privileges.

Licensed Practical Nurse

“**Licensed practical nurse**” means any person licensed in this state to practice practical nursing.

- “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.** A practical nurse is responsible and accountable for making decisions that are based upon the individual’s educational preparation and experience in nursing.

Certified Nursing Assistant

“**Certified nursing assistant**” means a person who meets the qualifications specified in this part and who is certified by the board as a Certified Nursing Assistant.

Inactive status

- The board shall adopt rules relating to application procedures for inactive status, to the biennial renewal of inactive licenses, and to the reactivation of licenses.
- The board shall prescribe by rule an application fee for inactive status, a renewal fee for inactive status, a delinquency fee, and a fee for the reactivation of a license.
- None of these fees may exceed the biennial renewal fee established by the board for biennial renewal of an active license.
- The department may not reactivate a license unless the inactive or delinquent licensee has paid any applicable biennial renewal or delinquency fee, or both, and a reactivation fee. 464.014

Restrictions and Penalty

- Persons who hold licenses to practice professional nursing in this state or who are performing nursing services pursuant to the exception set forth shall have the right to use the title "Registered Nurse" and the abbreviation "R.N."
- Only persons who hold licenses to practice as licensed practical nurses in this state or who are performing practical nursing services pursuant to the exception shall have the right to use the title "Licensed Practical Nurse" and the abbreviation "L.P.N."

Restrictions and Penalty

A person may not practice or advertise as, or assume the title of, registered nurse, licensed practical nurse, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, or advanced registered nurse practitioner or use the abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.," "C.N.M.," or "A.R.N.P." or take any other action that would lead the public to believe that person was certified as such or is performing nursing services unless that person is licensed or certified to practice as such.

Restrictions and Penalty

Only persons who hold valid certificates to practice as clinical nurse specialists in this state may use the title "Clinical Nurse Specialist" and the abbreviation "C.N.S."

Only persons who hold valid certificates to practice as advanced registered nurse practitioners in this state may use the title "Advanced Registered Nurse Practitioner" and the abbreviation "A.R.N.P."

Restrictions and Penalty

- Only persons who hold valid certificates to practice as certified registered nurse anesthetists in this state may use the title "Certified Registered Nurse Anesthetist" and the abbreviations "C.R.N.A." or "nurse anesthetist."
- Only persons who hold valid certificates to practice as certified nurse midwives in this state may use the title "Certified Nurse Midwife" and the abbreviations "C.N.M." or "nurse midwife."

Violations and Penalties

Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

- Practicing advanced or specialized, professional, or practical nursing, as defined in this part, unless holding an active license or certificate to do so.
- Using or attempting to use a license or certificate which has been suspended or revoked.
- Knowingly employing unlicensed persons in the practice of nursing.
- Obtaining or attempting to obtain a license or certificate under this part by misleading statements or knowing misrepresentation.

Violations and Penalties

- Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s.775.083
- Using the name or title "Nurse," "Registered Nurse," "Licensed Practical Nurse," "Clinical Nurse Specialist," "Certified Registered Nurse Anesthetist," "Certified Nurse Midwife," "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.
- Knowingly concealing information relating to violations 464.016

Sexual Misconduct in the Practice of Nursing.

- The nurse-patient relationship is founded on mutual trust.
- Sexual misconduct in the practice of nursing means violation of the nurse-patient relationship through which the nurse uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient.
- Sexual misconduct in the practice of nursing is prohibited.

Disciplinary Actions

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

- 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.

- 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.
- 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.

Disciplinary Actions

Being found guilty, regardless of adjudication, of any of the following offenses.
A forcible felony as defined in chapter 776.

- A violation of chapter 812, relating to theft, robbery, and related crimes.
- A violation of chapter 817, relating to fraudulent practices.
- A violation of chapter 800, relating to lewdness and indecent exposure.
- A violation of chapter 784, relating to assault, battery, and culpable negligence.
- A violation of chapter 827, relating to child abuse.
- A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.
- A violation of chapter 39, relating to child abuse, abandonment, and neglect.

Disciplinary Actions

- 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.
- False, misleading, or deceptive advertising.
- Unprofessional conduct, as defined by board rule.

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.

Disciplinary Actions

- 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.
- 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 State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to practice nursing

Disciplinary Actions

- 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.
- 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.

Disciplinary Actions

- 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.
- **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.
- Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

Disciplinary Actions

- The board may enter an order denying licensure or imposing any of the penalties in s. 456.072 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).
- 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.

- 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.
- 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

Florida Center for Nursing

Goals.

- Address issues of supply and demand for nursing, including issues of recruitment, retention, and utilization of nurse workforce resources. The Legislature finds that the center will repay the state's investment by providing an ongoing strategy for the allocation of the state's resources directed towards nursing.
- The primary goals for the center is to develop a strategic statewide plan for nursing manpower in this state by:
 - Establishing and maintaining a database on nursing supply and demand in the state, to include current supply and demand, and future projections; and selecting from the plan priorities to be addressed. (Convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to:

Review and comment on data analysis prepared for the center

Recommend systemic changes, including strategies for implementation of recommended changes

Evaluate and report the results of these efforts to the Legislature and others.

Enhance and promote recognition, reward, and renewal activities for nurses in the state by:

1. Promoting nursing excellence programs such as magnet recognition by the American Nurses Credentialing Center

Certified Nursing Assistant

“**Certified nursing assistant**” means a person who meets the qualifications specified in this part and who is certified by the board as a Certified Nursing Assistant.

Certified Nursing Assistant

Individual has successfully completed an approved training program and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department

Certified Nursing Assistant

- The board shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and successfully passes the required background screening
- If the person has successfully passed the required background screening within 90 days before applying for a certificate to practice

Practice of a Certified Nursing Assistant

Means providing care and assisting persons with tasks relating to the activities of daily living. Such tasks are those associated with personal care

- Maintaining mobility
- Nutrition and hydration
- Toileting and elimination
- Assistive devices, safety and cleanliness
- Data gathering, reporting abnormal signs and symptoms
- Postmortem care, patient socialization and reality orientation, end-of-life care
- Cardiopulmonary resuscitation and emergency care
- Residents' or patients' rights
- Documentation of nursing-assistant services, and other tasks that a certified nurse assistant may perform after training beyond that required for initial certification and upon validation of competence in that skill by a registered nurse.

This subsection does not restrict the ability of any person who is otherwise trained and educated from performing such tasks.

Certified Nursing Assistant Registry

Certified Nursing Assistant Registry.

- (1) Definition: The Certified Nursing Assistant Registry is a listing of certified nursing assistants who receive certification and maintain an active certificate
- (2) The registry is available through the Internet and contains the name and address of the certified nursing assistant.
- (3) Records of certified nursing assistants in the registry who have been disciplined for any crime, or for any abuse, neglect, or exploitation as provided or for any violation of Chapters 456 and 464, F.S., or rules of the board, are so indicated on the Internet look up screen, which is accessible on the Internet at <http://ww2.doh.state.fl.us/IRM00PRAES/PRASLIST.ASP>.
- (4) A certified nursing assistant may be removed from the registry if the certified nursing assistant fails to maintain an active certificate pursuant to Sections 464.203(5) and (8), F.S., or by an order of the board.

Disciplinary Guidelines

(1) **The Board is authorized by law to protect the public** from certified nursing assistants (CNAs) who do not meet minimum requirements for safe practice or who pose a danger to the public. The suspensions, restrictions of practice, and conditions of probation used by the Board in discharging its duties under Sections 456.072 and 464.204, F.S., shall include, but are not limited to, the following:

(a) **Suspension until appearance** before the Board or for a definite time period and demonstration of ability to practice safely.

(b) **Suspension until appearance before the Board**, or for a definite time period, and submission of mental or physical examinations from professionals specializing in the diagnosis or treatment of the suspected condition, completion of counseling, completion of continuing/in-service education, demonstration of sobriety and ability to practice safely.

(c) **Suspension until fees and fines paid** or until proof of Board mandated continuing/in-service education completion submitted.

Disciplinary Guidelines

- (d) **Suspension until evaluation** by and treatment in the Intervention Project for Nurses. In cases involving substance abuse, chemical dependency, sexual misconduct, physical or mental conditions which may hinder the ability to practice safely, the Board finds participation in the IPN under a stayed suspension to be the preferred and most successful discipline.
- (e) **Suspension stayed** so long as the registrant complies with probationary conditions.
- (f) **Probation with the minimum conditions** of not violating laws, rules, or orders related to the ability to practice as a CNA safely, keeping the Board advised of the CNA's address and employment, and supplying both timely and satisfactory probation and employer/supervisor reports

Disciplinary Guidelines

- (g) **Probation** with specified continuing/in-service education courses in addition to the minimum conditions. In those cases involving unprofessional conduct or substandard practice, including recordkeeping, the Board finds continuing/in-service education directed to the practice deficiency to be the preferred punishment.
- (h) **Probation with added conditions** of random drug screens, abstention from alcohol and drugs, participation in narcotics or alcoholics anonymous, psychological counseling, the prohibition on agency work, or the requirement that work must be under direct supervision on a regularly assigned unit.
- (i) **Personal appearances** before the Board to monitor compliance with the Board's order.
- (j) Administrative **fine and payment** of costs associated with probation or professional treatment.

Disciplinary Guidelines

The Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners and applicants for licensure guilty of violating Chapters 456 and 464, F.S.

The purpose of the disciplinary guidelines is to give notice to registrants and applicants of the range of penalties which will normally be imposed upon violations of particular provisions of Chapters 456 and 464, F.S. The disciplinary guidelines are based upon a single count violation of each provision listed.

Multiple counts of violations of the same provision of Chapters 456 and 464, F.S., or the rules promulgated thereto, or other unrelated violations will be grounds for enhancement of penalties. All penalties set forth in the guidelines include lesser penalties, i.e., reprimand and or course-work which may be included in the final penalty at the Board's discretion.

DELEGATION

DELEGATION TO UNLICENSED ASSISTIVE PERSONNEL

- “**Unlicensed assistive personnel**” (UAP) are persons who do not hold licensure from the Division of Health Quality Assurance of the Department of Health but who have been assigned to function in an assistive role to registered nurses or licensed practical nurses in the provision of patient care services through regular assignments or delegated tasks or activities and under the supervision of a nurse.
- “**Assignments**” are the normal daily functions of the UAP’s based on institutional or agency job duties which do not involve delegation of nursing functions or nursing judgment.
- “**Delegation**” is the transference to a competent individual the authority to perform a selected task or activity in a selected situation by a nurse qualified by licensure and experience to perform the task or activity.
- “**Delegator**” is the registered nurse or licensed practical nurse delegating authority to the UAP.
- “**Delegate**” is the UAP receiving the authority from the delegator (RN or LPN).

Delegation of Tasks Prohibited.

The registered nurse or licensed practical nurse, under direction of the appropriate licensed professional shall not delegate:

- (1) Those activities not within the delegating or supervising nurse's scope of practice.

- (2) Nursing activities that include the use of the nursing process and require the special knowledge, nursing judgment or skills of a registered or practical nurse, including:
 - (a) The initial nursing assessment or any subsequent assessments;
 - (b) The determination of the nursing diagnosis or interpretations of nursing assessments
 - (c) Establishment of the nursing care goals and development of the plan of care
 - (d) Evaluation of progress in relationship to the plan of care.

- 3) Those activities for which the UAP has not demonstrated competence

Delegation of Responsibilities

464.202 Duties and Powers of the Board of Nursing

- **These licensed and unlicensed personnel are now accountable to the Board of Nursing.** The licensed professional registered nurse is then asked to supervise and delegate responsibilities to this diverse staff, and the registered nurse has ultimate responsibility and accountability for care provided to patients.
- The nurse is responsible and answerable for the actions or the failure to act of self or others to whom there was a delegation.
- LPNs may supervise other LPNs and CNAs in Nursing homes, but only under the supervision of an RN. LPNs may only supervise within their own scope of practice.

The registered nurse **MUST not** delegate any activity that **requires assessment, evaluation, and nursing judgment commiserate with the professional nurse's scope of practice.**

CNAs assist and are not permitted to delegate their assignment to anyone else.

Delegation

Delegation is a complex process in professional practice requiring sophisticated clinical judgment and final accountability for patients' care.

Delegation belongs to the practice of registered nurses, but often it is not well understood or practiced - directing the work of others

Guidelines for Effective Delegation

Guidelines for effective delegation include the following:

1. Delegation requires RNs to make decisions based on patient needs, complexity of the work, competency of the individual accepting the delegation, and the time that the work is done.
2. Delegation requires that timely information regarding the individual patient be shared, defines specific expectations, and in the context of the individual patient situation, and provides needed guidance and support by the RN (Koloroutis, 2004).

Guidelines for Effective Delegation

Ultimate accountability for process and outcomes of care

RNs make assignments and the care provider accepts responsibility, authority, and accountability for the work assigned.

RNs have authority, or legitimate power, to analyze assessments, plan nursing care, evaluate nursing care, and exercise nursing judgment (NCSBN) which includes delegation

Effective Delegation

- Effective delegation is **based on one's state nurse practice act**; it serves to maximize patient care resources.
- **Responsibility, accountability, and authority** are integral to each RN's understanding of professional nursing practice, which includes properly assuming authority for the decisions and outcomes associated with patient care
- Holding all members of the nursing **team accountable for their responsibilities.**
- Delegation requires RNs to **use critical thinking skills** in order to match staff expertise with patient and family needs.

- Staff relationships also influence the delegation potential and the delegation process.
- Staffing schedules and consistent patient assignments that support pairing and partnering enable staff members to increase knowledge about each other and help to foster a strong sense of trust, thus increasing the delegation potential.

Five Rights of Delegation

1. The right task
2. Under the right circumstances
3. To the right person
4. With the right directions and communication
5. Under the right supervision and evaluation.

Individual V Organizational

- There is both individual accountability and organizational accountability for delegation.
- Organizational accountability for delegation relates to providing sufficient resources
 - Sufficient staffing with an appropriate staff mix
 - Documenting competencies for all staff providing direct patient care
 - ensuring that the RN has access to competence information for the staff to whom the RN is delegating care
- Delegation is a professional right and responsibility

Delegation in the Provision of Nursing Care

Essential Elements to form the foundation for delegation, include:

- Emphasize professional nursing practice
- Understand the definition of delegation, based on the nurse practice act and rules/regulations
- Emphasis on tasks/functions that cannot be delegated or cannot be routinely delegated

- Focus on RN judgment for task analysis and the decision whether or not to delegate
- Determine the degree of supervision required for delegation
- Identify guidelines for lowering risk related to delegation
- Develop feedback mechanisms to ensure that a delegated task is completed and to receive updated data to evaluate the outcome

Delegation in the Provision of Nursing Care

- Delegation skills are developed over time
- The RN determines appropriate nursing practice by using nursing knowledge, professional judgment and the legal authority to practice nursing.

RNs must know the context of their practice, including the state nurse practice act and professional standards as well as the facility/organization's policies and procedures related to delegation.

ETHICAL V LEGAL PRACTICE

Personal values and morals are formed over time with life experiences and development

When nurses enter the profession, there is an expectation to uphold legal standards of care and practice as well as moral and ethical codes of practice to provide the best quality of care to our patients (Guido, 2006, p. 2).

Making Decisions

Nurses make decisions on a daily basis. Nurses must take in to account all factors when faced with ethical dilemmas. These decisions are guided by personal and professional values as well as by legal standards of practice and professional codes of ethics. Ethical decision making models will be addressed as a means to process ethical dilemmas

The American Nurses Association (ANA) *Code of Ethics for Nurses*, offer nurses a framework to guide ethical decision making.

As we discuss ethical and legal aspects of care, it is important to first assess our own personal values and how we integrate our personal values with professional ethics, moral decision making, and standards of practice.

According to O'Brien (2011) Included in you exploration of personal values is spirituality and caring.

Why?

Nurses often find themselves in the midst of ethical dilemmas with physicians, patients, families, and peers and oftentimes struggle with the interplay between ethics and legal concepts.

Basic Definitions

Basic Definitions

- Ethics – Basic moral actions and values. Ethics is concerned with the motives, attitudes, and the relationship of the attitudes of individuals. It comprises the principles of right and wrong.
- It has to do with actions we wish people would take; not actions they must take.
- It provides structure for placing conduct into action (Guido, 2006, p.2)

Distinction Between Law and Ethics

Distinction between Law and Ethics

- “Legal system is founded on rules and regulations that guide society in a formal and binding manner. Created by individuals and capable of being changed”. It gives guidance to healthcare practitioners, regardless of their personal views and value system.
- The law recognizes the competent patient’s right to refuse treatment, however, this right is not absolute. If there are over riding state interest/s treatment may be mandated against a patient’s wishes.
 - Jehovah’s witness
 - Mandatory immunization statutes (p.3)

Distinction Between Law and Ethics

- Ethical values are subject to philosophical, moral, and individual interpretation.
- Both the healthcare provider and recipient have a system of rights and values
- Most healthcare workers experience difficulty in areas that involve both ethics and law
 - Death and dying
 - Genetics
 - Abuse and neglect
 - Futility of healthcare

Distinction Between Law and Ethics

	Law	Ethics
Source	External to oneself; involve rules and regulations of society	Internal to oneself; involve values, beliefs, and individual interpretations
Concerns	Conduct and actions – what a person does or fail to do	Motives, attitudes, and culture. Why an individual acts a certain way
Interest	Society as a whole as opposed to the individual	Good of the individual within society
Enforcement	Courts, statutes, and Board of nursing	Ethics committee and professional organization

Ethics

Burkhardt and Nathaniel (2008) wrote that: “ Ethics is concerned with the study of social morality and philosophical reflection on society’s norms and practices. Ethics is the practical application of moral philosophy, asking the question, ‘what should I do in this situation?’

Question

The highest ethical principle is:

1. Autonomy
2. Beneficence
3. Non-maleficence
4. Veracity
5. Fidelity
6. Justice
7. Respect for others
8. Paternalism

Respect for person

Serves as the core value underlying the Americans with Disability Act and other antidiscrimination statute

Core ethical principle and is the first principle enumerated by the American Nurses Association Code of Ethics (2001).

The nurse, in all professional relationships, practices with compassion and respect for the inherent dignity, worth, and uniqueness of every individual, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems (ANA 2010, p. 1).

Basic Definitions

- Autonomy – personal freedom and self determination. Informed consent. Healthcare representatives respect for patients' rights and decision making
- Beneficence – The action one takes must promote good. **The difficulty of this principle is in defining good. Lays the groundwork for the degree of trust that society places in the profession**
- Nonmaleficence - Do no harm. Health care workers apply this concept as detriment/benefit analysis. Include the principle of deliberate harm , risk of harm and harm that occurs during a beneficial act.

Ethical Principles

- Veracity – truth telling in answering patients questions and giving information
- Fidelity – Keeping one’s promises and commitments
- Justice – Individuals should be treated fairly and equally.
- Respect for others – Incorporates all other principles.
- Paternalism - Allows one to make decision for another. Allows no collaboration in decision making. It is referred to as the “standard of best interest”

What question would you ask when faced with an ethical dilemma?

Resolving Issues

- Who should make the decision?
- What are the options and course of options?
- What are the available options and alternatives?
- What are the consequences of all possible options?
- Identify rules, obligations, and values
- What are the desired goals and outcomes?
- Think about conflicting moral claims

Consider your role as an advocate

Moral Dilemma

An ethical dilemma is a debate between two moral principles, where two sides can argue about what is wrong or what is right – conflict.

Ethical dilemmas “are problems in which resolution is complicated by a perception of equally unfavorable options.

Pavlish, Brown-Saltzman, Hersh, Shirk and Nudelman (2011).

Moral Uncertainty

- One sense there is a moral problem and is not sure of the correct action.
- A dilemma is a problem that requires choice between two options.

ANA Code of Ethics

The ANA Code of Ethics for Nurses (ANA, 2001) notes that the Nurse Executives has the obligation "... to protect the patient, the public and the profession from potential harm " (section 3.5).

Questions to Ask - Decision Making

In making decision about this patient's care it is important to ask the following questions:

What is known about the patient's situation?

Do I know the patient's values and preferences?

Are there assumptions on the part of the nurse that needs more information to clarify?

Are my values in conflict with those of the patient?

Considering the nurse's primary obligation to the patient did she do everything that was ethical?

It is the responsibility of the nurse to promote, advocate for, and strive to protect the health, safety, and rights of his/her patient (Fowler, 2010).

Ethical Decision Models

- MORAL
 - Massage the dilemma
 - Outline your options
 - Resolve the dilemma
 - Act by applying the chosen option
 - Look back and evaluate the process/outcome

- AACN's 4As to Rise above Moral Distress
 - Ask
 - AFFIRM
 - Assess
 - Act

ANAs 4As	Action	Goal
Ask	Ask appropriate questions. Identify if what you are feeling is moral distress	Become aware of signs and symptoms of moral distress
Affirm	<p>Affirm your feelings about the issue the degree of distress and your commitment to take care of yourself</p> <p>Validate feelings and perception with others</p> <p>Affirm professional obligation and act</p>	Make a personal commitment to address moral distress when experienced
Assess	<p>Put the facts together. What's being done currently and why? Identify the source of distress</p>	<p>Create an action plan You may be ambivalent about taking action/s to change Risk/benefits</p>
Act	<p>Take action Implement strategies to initiate the change you desire</p>	<p>Preserve your integrity and authenticity. Think about potential pitfall</p>

It is very important to use a decision-making model or process to help use as professional nurse work threw the situation. “Ethical problems in a clinical setting are those we rarely confront in our daily work (Park, 2012, p.153).

Facing an Ethical Dilemma

- Think about the type of dilemma
- Consider intervening factors
- Degree of uncertainty that exist
- Place in context
- Think about the stakeholders
- Power imbalance whether real or perceived affects decision making
- Think about extraneous variables
- Look at other relevant cases
- Determine the degree of urgency and the approach to finding a solution or make the best decision

Hospital Ethics Committee

Is used to provide:

- Guidance and decision making
- Provide structure and guidelines for potential problems
- Allows open forum for discussion
- Patient advocate – patient is at the core of the committee's decision
- Ethics committee follow one of three structures
 - Autonomy Model – facilitate decision making for the competent patient
 - Patient Benefit Model – Uses substituted judgment and facilitates decision making for incompetent patients
 - Social Justice Model – Consider broad social issues and is accountable to the institution (Guido,p.10).

Standards of Care

Standards of Care are based on:

- Individual's level or degree of quality
- Determine by skills and learning commonly possessed by members of a profession
- There has to be minimal requirements - define an acceptable level of care
- Supported by authoritative statements promulgated by a profession

Establishing Standards of Care

Internal Standards

- Set by the role and education of the nurse
- Set by the institution in the form of policies and procedures
- Policies and procedures - it is important that follow and not to do more than the policy requires

Standard of Care

Based on reasonableness

Average degree of skill, care, and diligence exercised by members of the same profession

Necessary to assure the right of patients to quality of care regardless of the setting

Establishing Standards of Care

External Standards

State boards of nursing - Nurse Practice act. There are rules and regulations to enforce the state nurse practice act –Professional organizations

Specialty organizations - Professional nurse organizations
ANA, AACN,

Federal organizations and guidelines

Federal Agencies

JC

CMS - Social Security Administration

Negligence V Malpractice

Negligence

- Negligence – denotes conduct lacking in care and equates with carelessness.
- A deviation from standard of care that a reasonable prudent person would do in a given circumstances.
- Also, include what a reasonable person would not do

Malpractice

- Addresses professional standard of care and the professional status of the caregiver
- Professional misconduct or fidelity in professional or judiciary duties
- Failure of a professional person to act in accordance with prevailing professional standards, or failure to foresee consequences that a professional person, having the necessary skills and competencies, and education should foresee.
- Results in injury

Self Awareness

The first and most important step in awareness of the self is the conscious intention to be aware of one's:

Thoughts

Feelings

Emotional and physical responses

Insights into various situations

(Burkhardt & Nathaniel, 2008)

Although nurses work under the orders of physicians, when nurses are not allowed to think freely, practice what they have learned, practice their passion of patient advocacy and most of all, follow their moral and ethical values, they feel morally distressed and may react in various unexpected ways. One of the reactions to this distress unfortunately, may affect negatively our ultimate price, the patients.

McAndrew, N. S, Leske, J. S, & Garcia, A. (2011).

References

- CONTINUING EDUCATION REQUIREMENTS. Retrieved from <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=64B9-5>
- Div64B9: Florida Board of Nursing- Florida Administrative Rules, Laws, code Register. Retrieved from: <https://www.flrules.org/gateway/Division.asp?DivID=332>
- Florida Board of Nursing Renewal information. Retrieved from: <http://www.floridasnursing.gov/renewals>
- Florida Board of Nursing. Retrieved from <http://www.floridasnursing.gov/renewals/registered-nurse-rn>
- Greco, P.J., Schulman, K.A., Lavizzo-Mourey, R., & Hansen-Flaschen, J. (1991). The Patient Self-Determination Act and the Future of Advance Directives. *Ann Intern Med.* 115(8):639-643
- Guido, G. W. (2006). *Legal and ethical issues in nursing* (4th. Ed.). Upper Saddle River, NJ: Pearson.
- JFK Medical Center: Administrative Policy and Procedure; Do not Resuscitate. Revised 5/12
- Joint Statement on Delegation American Nurses Association (ANA) and the National Council of State Boards of Nursing. Retrieved from (NCSBN)http://www.unc.edu/courses/2006fall/nurs/379/960/module10/Joint_statement.pdf
- Kottkamp, N., & Huff, R. (2009). HCA Center for Clinical Ethics Virtual Ethics Committee. Retrieved from ATLAS
- McAndrew, N. S, Leske, J. S, & Garcia, A. (2011) Influence of Moral Distress on the Professional Practice Environment During Prognostic Conflict in Critical Care *Journal of trauma nursing.* 18, 4, 221 – 230.

References

- National Council of State Boards of Nurses and American Nurses Association. (2006) NSCBN and ANA issue joint statement on nursing delegation. Retrieved from www.ncsbn.org/pdfs/Joint_statement.pdf
- National Council of State Boards of Nurses. (1995). Concepts and decision-making process. National Council position paper. Retrieved from www.ncsbn.org/323.htm
- Park, E. (2012). An integrated ethical decision-making model for nurses. *Nursing Ethics*, 19(1), 139-159. doi:10.1177/0969733011413491ives, and ethical norms learned from our parents are not sufficient to resolve clinical ethical issues” (Park, 2012, p.140).
- Pavlish, C., Brown-Saltzman, K., Hersh, M., Shirk, M., & Nudelman, O. (2011). Early indicators and risk factors for ethical issues in clinical practice. *Journal of Nursing Scholarship*, 43(1), 13-21. doi:10.1111/j.1547-5069.2010.01380
- Pavlish, Brown-Saltzman, Hersh, Shirk and Nudelman (2011) define ethical dilemmas “as problems in which resolution is complicated by a perception of equally unfavorable options
- Polish, C., Brown-Saltzman, K., Harsh, M., Shirk, M., & Underman, O. (2011). Early indicators and risk factors for ethical issues in clinical practice. *Journal of Nursing Scholarship*, 43(1), 13-21. doi:10.1111/j.1547-5069.2010.01380
- Summer, J. (2010). A moral framework for caring in nursing: Neo-Stoic Eudaemonism. *International Journal for Human Caring*, (14)1, 51-57.
- Ulrich, R. L. (2001). The Patient Self-Determination Act. Meeting the challenges in Patient Care. Retrieved from <http://press.georgetown.edu/book/georgetown/patient-self-determination-act>
- Wed, A. (2010). Delegation Skills Developing Delegation Skills. Retrieved from: <http://www.nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TableofContents/Vol152010/No2May2010/Delegation-Skills.html>

- <http://phcc.edu/sites/default/files/program/files/Nurse-Practice-Act.pdf>
- <http://phcc.edu/sites/default/files/program/files/Nurse-Practice-Act.pdf>
- <http://www.floridasnursing.gov/renewals/certified-nursing-assistant/>
- <http://www.floridasnursing.gov/latest-news/national-council-of-state-boards-of-nursing>
- Nurse Practice Act, Rules & Regulations Nurse Practice Acts Guide and Govern Nursing Practice <https://www.ncsbn.org/1455.htm>
- <http://www.floridasnursing.gov/resources/>
- : 464.018 <http://www.flsenate.gov/Laws/Statutes/2012/Chapter464/All>
- 2012 Florida Statutes - <http://www.flsenate.gov/Laws/Statutes/2012>