

**Module 4**  
**LEGAL & ETHICAL ASPECTS OF NURSING II**

**Unit 1**

**A Nurse's Legal Status in North Carolina**

**INTRODUCTION**

Included in this unit are excerpts from the Nursing Practice Act, State of North Carolina, and copies of the North Carolina Administrative Code: Components of Nursing Practice and Nurse Licensure Compact. Included, as well, are excerpts from the North Carolina Board of Nursing website regarding: Advisory statements, interpretive statements, & Nursing Disaster Policy. Please review each document thoroughly prior to completing the content of this unit.

**OBJECTIVES**

Upon completion of this unit, you will be able to:

- Describe the purpose of the North Carolina Board of Nursing.
- Identify the various components of the Nursing Practice Act, State of North Carolina.
- Identify and describe the scope of practice for RN's and LPN's.
- Differentiate between the practice of nursing for RN's and LPN's.
- Compare and contrast the components of the NC Nurse Practice Act, Rules and regulations governing the Scope of Practice for RN's and LPN's, and the NC board of Nursing Interpretations.

**Nurse Practice Acts**

Each of the fifty states in America had a law regulating the practice of nursing. This law is called the Nurse Practice Act. The law is enforced by a quasi-governmental agency called the Board of Nursing. Because each state maintains its right to govern its own internal affairs, Nurse Practice Acts differs from state to state and each Board of Nursing implements the law differently through rules and regulations.

**North Carolina Board of Nursing**

The NC Board of Nursing is empowered by North Carolina statutes to:

- Administer this Article;
- Issue its interpretations of this Article;

- Adopt, amend or repeal rules and regulations as may be necessary to carry out the provisions of this Article;
- Establish qualifications of, employ, and set the compensation of an executive officer who shall be a registered nurse and who shall not be a member of the board;
- Employ and fix the compensation of other personnel that the board determines are necessary to carry into effect and incur other expenses necessary to effectuate this Article;
- Examine, license, and renew the licenses of duly qualified applicants for licensure;
- Cause the prosecution of all persons violating this Article;
- Prescribe standards to be met by the students, and to pertain to faculty, curricula, facilities, resources, and administration for any nursing program as provided in G.S. 90-171.38;
- Survey all nursing programs at least every five years or more often as deemed necessary by the board or program director;
- Grant or deny approval for nursing programs as provided in G.S. 90-171.39;
- Upon request, grant or deny approval of continuing education programs for nurse as provided in G.S. 90-171.42;
- Keep a record of all proceedings and make available to the Governor and licensees an annual summary of all actions taken;
- Appoint, as necessary, advisory committees which may include persons other than board members to deal with any issue under study;
- Appoint and maintain a subcommittee of the board to work jointly with the subcommittee of the Board of Medical Examiners to develop rules and regulations to govern the performances of medical acts by registered nurses and to determine reasonable fees to accompany an application for approval or renewal of such approval as provided in G.S. 90-6. The fees and rules developed by this subcommittee shall govern the performance of medical acts by registered nurses and shall become effective when they have been adopted by both boards;
- Recommend and collect such fees for licensure, license renewal, examinations and re-examinations as it deems necessary for fulfilling the purposes of this Article; and
- Adopt a seal containing the name of the board for use on all certificates, licenses, and official reports issued by it.

### **License Renewal**

Every unencumbered license, except temporary license, issued under this Article shall be renewed for two years. On or before the date the current license expires, every person who desires to continue to practice

nursing shall apply for licensure renewal to the Board of forms furnished by the Board and shall also file the required fee. The Board shall provide space on the renewal form for the licensee to specify the amount of continuing education received during the renewal period. Failure to renew the license before the expiration date shall result in automatic forfeiture of the right to practice nursing in North Carolina until such time that the license has been reinstated.

North Carolina nursing licenses are renewable every two years on or before the last day of your birth month. Failure to renew a license on or before the expiration date, then the right to practice nursing in North Carolina is forfeited. If a nurse practices nursing with a lapsed license, disciplinary action may be taken.

### **Temporary License**

- a) Upon implementation of the computer-adaptive licensure examination, no temporary licenses will be issued to persons who are applying for licensure under G.S. 90-171.30.
- b) The Board may issue a nonrenewable temporary license to persons applying for licensure under G.S. 90-171.32 for a period not to exceed the lesser of six months or until the Board determines whether the applicant is qualified to practice nursing in North Carolina. Temporary licensees may perform patient-care services within limits defined by the Board. In defining these limits, the Board shall consider the ability of the temporary licensee to safely and properly carry out patient-care services. Temporary licensees shall be held to the standard of care of a fully licensed nurse.

The temporary license is valid for six months or until the application for endorsement is approved, whichever comes first. If the temporary license expires before the endorsement application has been approved, it cannot be renewed or extended. Individuals awaiting examination results are not eligible for a temporary license in this state.

### **License reinstatement**

Persons who allow their license to lapse may wish to apply for reinstatement of their license. If, however, their license has lapsed for 5 or more years, the North Carolina Board of Nursing will require the applicant to satisfactorily complete a refresher course, like this one, which has been approved by the Board.

### **Revocation, suspension, or denial of licensure**

Section 1. Article 9 of Chapter 90-171.37 states that a license can be revoked, suspended or denied, if the board determines that the nurse of applicant:

- Has given false information or has withheld material information from the board in procuring or attempting to procure a license to practice nursing;
- Has been convicted of or pleaded guilty or nolo contendere to any crime which indicated that the nurse is unfit or incompetent to practice nursing or that the nurse has deceived or defrauded the public;

- Has a mental or physical disability or uses any drug to a degree that interferes with his or her fitness to practice nursing;
- Engages in conduct that endangers the public health;
- Is unfit or incompetent to practice nursing by reason of deliberate or negligent acts or omissions regardless of whether actual injury to the patient is established;
- Engages in conduct that deceives, defrauds, or harms the public in the course of professional activities or services;
- Has violated any provision of this article; or
- Has willfully violated any rules enacted by the board.

A revoked or restricted license may be reinstated at any time when the board rules that the reason(s) for revoking or restricting the license no longer exists and that the nurse or applicant can reasonably be expected to safely and properly practice nursing.

### **Nursing Practice Act, State of North Carolina**

The current scopes of practice for RN's and LPN's are set forth in the North Carolina statutes and are defined by Section 1, Article 9 of Chapter 90-171.2g and .2h of the North Carolina Act to Regulate the Practice of Nursing. An RN in the state is expected to practice nursing by

- Assessing the patient's physical and mental health, including the patient's reaction to illness and treatment regimens;
- Recording and reporting the results of the nursing assessment;
- Planning, initiating, delivering, and evaluating appropriate nursing act;
- Teaching, delegating to or supervising other personnel in implementing the treatment regimen;
- Collaborating with other health care providers in determining the appropriate health care for a patient but, subject to the provisions of G.S. 90-18.2, not prescribing a medical treatment regimen or making a medical diagnosis, except under supervision of a licensed physician;
- Implementing the treatment and pharmaceutical regimen prescribed by any person authorized by State law to prescribe such a regimen;
- Providing teaching and counseling about the patient's health care;
- Reporting and recording the plan for care, nursing care given, and the patient's response to the care; and

- Supervising, teaching, and evaluating those who perform or are preparing to perform nursing functions and administering nursing programs and nursing services.
- Providing for the maintenance of safe and effective nursing care, whether rendered directly or indirectly.

### **An LPN may practice nursing by**

- Participating in assessing the patient's physical and mental health including the patient's reaction to illness and treatment regimen's;
- Recording and reporting the results of the nursing assessment;
- Participating in implementing the health care plan developed by the registered nurse and/or prescribed by any person authorized by State law to prescribe such a plan, by performing tasks delegated by and performed under the supervision or under orders or directions of a registered nurse, physician licensed to practice medicine, dentist, or other person authorized by State law to provide such supervision;
- Assigning or delegating nursing interaction to other qualified personnel under the supervision of the registered nurse;
- Participating in the teaching and counseling of patient's as assigned by a registered nurse, physician licensed to practice medicine in North Carolina, or dentist; and
- Reporting and recording the nursing care rendered and the patient's response to that care.
- Maintaining safe and effective care, whether rendered directly or indirectly.

### **Scope of practice**

The scope of practice is further defined in the North Carolina Administrative Code .222 which specifies components of nursing practice and by the North Carolina Board of Nursing Interpretations. Advisory statements establish legitimate practice activities for RN's and LPN's which allow both categories of nurses to perform specific duties and responsibilities. These nursing activities should be components of generic education didactic and clinical experiences and should not require pursuit of additional continuing education experiences in order to develop a level of competency.

The North Carolina Board of Nursing Advisory statements for RN' and LPN's includes a list of 40 skills with detailed information about each, addressing whether it is in the scope of practice or not for an RN or LPN. Facilities no longer have to be approved to perform these activities, however, they must ensure policies, procedures and documentation of competency for the nurse who does perform the skill in that facility.

Interpretations of skills in the scope of practice change frequently. Nurses licensed to practice in North Carolina should contact the North Carolina Board of Nursing for the most current interpretations.

It is necessary for nurses practicing in North Carolina to know the exact scope of practice allowed by North Carolina Statutes. Copies of documents included in this module may be ordered from the North Carolina Board of Nursing, P. O. Box 2129, Raleigh, NC.

## **NORTH CAROLINA BOARD OF NURSING**

### **INTERPRETATIONS ON PRACTICE QUESTIONS**

#### **OTHER**

1. The statutes restrict the practice of an emergency medical technician to emergency situations. Absent extraordinary circumstances, it would appear that the emergency situation would cease at the time of the delivery of the patient to an appropriate treatment facility. (May 1984)
2. A nurse licensed in another jurisdiction who is traveling through North Carolina from one jurisdiction to another with a specific patient, may administer nursing care. (May 1984)
3. A nurse licensed in another state may not practice in North Carolina, even on a temporary basis, without obtaining a North Carolina license. (May 1984)

**Unit 1**  
**Self-Test**

1. The law regulating the practice of nursing is the \_\_\_\_\_.
2. True or false: Nurse practice acts differ from state to state. \_\_\_\_\_.
3. Who is responsible for enforcing the North Carolina Nurse Practice Act?  
\_\_\_\_\_.
4. North Carolina nursing licenses are renewable every \_\_\_\_\_ years?
5. For what reasons might the Board of Nursing suspend, revoke, or deny licensure?  
\_\_\_\_\_  
\_\_\_\_\_.
6. What is the new regulating document that addresses various skills that RN's and LPN's are allowed to perform in their scope of practice? \_\_\_\_\_
7. List the activities that facilities must ensure adequate policies, procedures, and competency documentation for the nurses completing the skills.  
\_\_\_\_\_  
\_\_\_\_\_.

## **UNIT 2**

### **Ethical Issues in Nursing**

#### **INTRODUCTION**

This unit raises many ethical questions faced by nurses in any practice setting but particularly in those acute care settings where life and death crises arise daily. The difference between what is right and what is wrong could be a fine line. What principles are behind deciding what is right or wrong?

#### **OBJECTIVES**

- Upon completion of this unit, you will be able to:
- Explain ethics.
- Describe the major underlying principles of ethics.
- Compare and contrast the major characteristics of ethical dilemmas faced by nurses.

#### **ETHICS**

Ethics is the study of human values or right conduct in an effort to state and evaluate principles by which ethical problems can be solved. Whenever ethical dilemmas or issues surface, there are no clear-cut guidelines which assist in solving the problems or answering the questions. Questions like these are raised whenever an ethical dilemma exists: “What should I do?” “What is the right thing to do?” “What harm will result from my decision or actions?”

Actions may be classified as follows:

- Ethical and legal,
- Unethical and illegal,
- Ethical and illegal, and
- Unethical and legal

As a health care professional, you will face conflicts between ethical and illegal as well as unethical and legal issues frequently. You will constantly be asking yourself, “What is my duty and what is right?” Unfortunately, many situations involving duties and rights are taken into a courtroom setting to be resolved.

#### **Characteristics of Ethical Dilemmas**

The specific characteristics of ethical dilemmas include:

- A choice between equally unfavorable actions.
- The existence of a choice between the two actions.

- Significantly different values are placed on the actions and their consequences by all persons involved.
- Volumes of information do not help to solve the dilemma.
- Various disciplines provide answers to the dilemma.
- Unfavorable outcomes usually result when actions are taken to solve the dilemma.
- Ethical dilemmas are resolvable.
- When trying to solve a dilemma, there is no simple correct resolution, and usually what is decided must be defended to those opposing the solution.

### **Examples of Ethical Dilemmas**

The following examples illustrate some common ethical dilemmas faced by health care professionals:

- “Resuscitate” versus “Do not resuscitate” orders.
- The patient’s “right to die” or “death with dignity” versus the health care team’s responsibility to provide reasonable care.
- “Ordinary care” versus “extraordinary care.”
- Withdrawing “extraordinary care” versus withdrawing “ordinary care.”
- Abortion versus adoption.
- Allocating available health care and life-saving resources.
- Professional Integrity.

### **Ethical Decision Making**

The basis principles involved in making ethical decisions include preserving life, alleviating suffering, causing no harm, respecting the patient’s desires, providing justice, and telling the truth. In deciding each of the issues listed above, the following statements must be considered:

- The patient or legal guardian has the authority to make the decision (not the doctor or nurse).
- The quality of communications affects the outcome of the decisions, giving the decision makers either positive or negative feelings.

- The decision makers must reflect upon the quality of life issues.
- The code of patient's right must be adhered to.

Whenever ethical decisions are in process, decision making should not be rushed. Some definitive ground rules should be in place within each institution. These rules should make sure that enough time is allowed to:

- Assess patient competence to make personal decisions.
- Solicit input from the total health care team.
- Solicit patient and family feelings regarding alternatives.
- Select the most appropriate alternatives.

### **Living Wills**

A living will is a document established by an individual, outlining their wishes regarding the performance of extraordinary life-saving measures. This document must be witnessed by individuals who will not benefit from the death of that person. This document must, also, be completed while considered fully competent. Most states now have enacted a special type of living will into law called a Natural death act. This document as well can withhold or withdraw life-sustaining measures from a client if they are considered to be in a terminal state. A natural death act is effective once the person is diagnosed with a terminal condition, and it is decided by a physician that b not withholding or withdrawing life-sustaining treatments, it would only prolong the death of that person who has no chance of recovering. It is important for the individual to understand that as their health status changes, so doe the status of the living will. (i.e. from terminally ill to critically ill). All healthcare facilities are require to have a policy and procedure specifying the legal aspects of living wills and how to handle changes in health status. Individuals with living wills are advised to keep a copy for themselves, provide one for their primary physician, and a trusted friend or relative for easy access. Living wills are recognized as legal documents in 38 states in the U.S., however, they are not viewed as legal documents in Canada.

### **Informed Consent**

By law in North Carolina, the attending physician is required to inform the patient of all invasive medical and/or surgical treatments or procedures to be performed. Also, the physician is required to discuss all positive and negative outcomes, alternatives, and consequences of no treatment regarding all treatments and procedures. It is the responsibility of the person performing the procedure to obtain informed consent. Nurses should only reinforce the physician's teaching for informed consent. Regardless of the process, the patient always retains the authority and the right to agree or to disagree with initiating and/or continuing the treatment.

### **Summary**

Solving ethical dilemmas is a very difficult responsibility for health care personnel because there is no right or wrong answers. Good communication between health care providers, physicians and nurses as

well as all team members, makes the process fulfilling and appropriate. It is important to remember that the patient or legal guardian retains the right to select the appropriate alternatives or retains the right as the decision maker.

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Ellis, J. R. and Hartley, C. L. (2004) *Nursing in Today's World* (8<sup>th</sup> ed.). Philadelphia, PA: Lippincott, Williams, and Wilkins.

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**UNIT 2**  
**Self-Test**

Explain ethics.

What are the basic principles involved in making ethical decisions?

A \_\_\_\_\_ is a patient's written declaration regarding the performance of extra-ordinary life saving measures.

Give three examples of ethical dilemmas faced by nurses.

What is the physician required to do before the patient signs an informed consent for surgery?

**Module 4**  
**Answers to Self-Tests**

Unit 1

1. Nurse Practice Act
2. True
3. The North Carolina Board of Nursing
4. Two
5.
  1. Giving false information or withholding information from the board.
  2. Having been convicted of or pleaded guilty to any crime that indicated the nurse is unfit or incompetent to practice nursing, or having deceived or defrauded the public.
  3. Having mental or physical disability or using any drug to the degree that interferes with fitness to practice nursing.
  4. Engaging in conduct that endangers the public health.
  5. Is unfit or incompetent to practice nursing by reason of deliberate or negligent acts or omissions, regardless of whether or not patient was injured.
6. North Carolina Board of Nursing Advisory Statements.
7. Administration of medications/fluids into body cavity/organ, Central Vascular route, Cranial Intraventricular, Epidural Analgesia, Intraoral Infiltrates, Intraosseous, Intrathecal, Peripheral Vascular Route, Pitocin, Prostaglandin, Thrombolytics. Vascular Access for Arterial Punctures, Cardiac Outputs, Femoral Vein Cannulation, Jugular Vein Cannulation, peripheral insertion of central catheters, peripheral insertion of central Catheters, Peripheral Insertion of Midline Catheters, Removal of Central Catheters. Artificial Insemination, Bimanual Exam, Breast Assessment, Debridement, Defibrillation, Endotracheal Intubation, Enteral Feeding Tubes, Epicardial Pacing Wires, External Temporary Pacemakers, Fetal Scalp Electrodes, Flexible Sigmoidoscopy, Gastrostomy/Suprapubic catheter reinsertion, Pap Smear, Pericardial fluid aspiration, peritoneal dialysis, pronouncement of death, prostate screening, surgical first assist, suturing, Thoracotomy tube removal, umbilical catheter insertion.

## Unit 2

1. The study of human values or right conduct in an effort to state and evaluate principles by which ethical problems can be solved.
2. Preserving life, alleviating suffering, causing no harm, respecting the patient's desires, providing justice, and telling the truth.
3. Living will.
4. Resuscitate vs. do not resuscitate  
Right to die vs. reasonable care  
Ordinary vs. extraordinary care  
Abortion vs. adoption  
Allocating available health care and life-saving resources  
Telling the truth
5. To discuss all positive and negative outcomes of the procedure.

## EVALUATION

1. Did this module cover what you expected it to? Yes \_\_\_\_  
No \_\_\_\_
  
2. Was the topic treated in sufficient depth? Yes \_\_\_\_  
No \_\_\_\_  
If no, check one of the following  
Too little depth \_\_\_\_  
Too great a depth \_\_\_\_  
Assumed I know too much \_\_\_\_
  
3. Did the module hold your interest? Yes \_\_\_\_  
No \_\_\_\_
  
4. Were the objectives fulfilled? Yes, very much \_\_\_\_  
Somewhat \_\_\_\_  
Very little \_\_\_\_
  
5. Was the module written in easily understood language? Yes \_\_\_\_  
No \_\_\_\_
  
6. Estimate the number of hours you spent reading and studying this module? 1-5 hrs. \_\_\_\_  
6-10 hrs. \_\_\_\_  
11-20 hrs. \_\_\_\_  
More than 20 hrs. \_\_\_\_
  
7. Will you be able to use this information when you return to practice? Yes \_\_\_\_  
No \_\_\_\_
  
8. Overall, were you satisfied with module? Yes \_\_\_\_  
No \_\_\_\_
  
9. Please use the space below (and on the back, if needed) to offer additional comments or suggestions.
  
10. Module # \_\_\_\_\_.