

Final Order No. DOH-02-0365-DS-MOA
FILED DATE - 3/5/02
Department of Health
By: Vicki R. Kenon
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF NURSING

IN RE: PETITION FOR DECLARATORY STATEMENT

BRENDA SAMMY, R.N.
STAFF NURSES, MANATEE SURGICAL CENTER

FINAL ORDER

This matter came before the Board of Nursing on February 7, 2002, in Miami, Florida, for consideration of the referenced Petition for Declaratory Statement. The Notice of Petition for Declaratory Statement was published on July 20, 2001, in the Vol. 27, No. 29, in the Florida Administrative Weekly.

The petition filed by BRENDA SAMMY made the following inquiries:

A. Is it within the scope of practice for a registered nurse to administer Diprivan, pursuant to a verbal or written order given by an anesthesiologist who remains in the procedure room performing a lumbar epidural steroid injection?

B. When an anesthesiologist has administered Diprivan but kept the syringe in the IV port while administering an eye block, is it within the scope of practice for a registered nurse to further administer Diprivan if ordered to do so by the anesthesiologist?

C. Is it within the scope of practice for a registered nurse to monitor a patient who has received Diprivan when the R.N. has administered Diprivan pursuant to a verbal or written order given by an anesthesiologist who is in the procedure room performing a lumbar epidural steroid injection?

D. Is it within the scope of practice for a registered nurse to monitor a patient who has received Diprivan if an anesthesiologist administers the Diprivan and remains in the room performing a lumbar epidural steroid injection?

E. Is it within the scope of practice for a registered nurse to monitor a patient who has received Diprivan administered by an anesthesiologist who then performs an eye block, and leaves the patient in pre-op while the patient is still unresponsive?

FINDINGS OF FACTS

1. Diprivan (Propofol) is an anesthetic agent which, according to the manufacturer, is to be used for, "general anesthesia or monitored anesthesia care (MAC) sedation" and "should be administered only by persons trained in the administration of general anesthesia and not involved in the conduct of the surgical /diagnostic procedure."

2. Diprivan takes patients into deep sedation, that is, deeper than conscious sedation.

3. At the Petitioners current place of employment, anesthesiologists administer the Diprivan and a registered nurse is expected to monitor the patient's airway, cardiac, and respiratory status. The patient is commonly in the prone position making airway management and assessment more difficult.

4. Registered Nurses who monitor patients who have been administered Diprivan are expected to maintain the patient's airway.

5. In the pre-op area, the anesthesiologist performs eye blocks for the ophthalmologists. The anesthesiologist injects the Diprivan prior to the block and then leaves the patient to a registered nurse to monitor the patient.

6. The anesthesiologist also at times leaves the Diprivan syringe needle assembly in the IV port and asks the registered nurse to inject more Diprivan if the patient starts to move while the anesthesiologist performs the eyeblock.

7. The Petitioner and her R.N. colleagues at Manatee Surgical Center are not trained to manage patients in deep sedation or under general anesthesia.

8. None of the Petitioners are certified registered nurse anesthetists (CRNA) or any other type of advanced registered nurse practitioners (ARNP).

CONCLUSIONS OF LAW

9. The Board of Nursing has authority to issue this Final Order pursuant to Section 120.565, Florida Statutes.

10. Section 464.003, Florida Statutes, outlines the scope of practice for registered nurses and reads in part as follows:

(3)(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

3. The supervision and teaching of other personnel in the theory and performance of any of the above acts.

11. Section 464.012, Florida States, reveals the scope of practice for certified registered nurse anesthetist and reads in part as follows:

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

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.

2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.

3. Order under the protocol preanesthetic medication.

4. Perform under the protocol procedures commonly used to render the

patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.

5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

12. The administration of anesthetic agent such as Diprivan for the purpose of rendering a patient insensible to pain, is an advanced practice act that may be performed by a CRNA under an established protocol with a duly licensed physician.

13. The monitoring and management of patients under anesthesia, during or after a procedure, when the patient does not have an established airway, is also an advanced practice act that may be performed by a CRNA under an established protocol with a duly licensed physician.

14. Advanced practice acts may not be performed by registered nurses who are not certified as ARNPs pursuant to Section 464.012, Florida Statutes.

15. Based on the foregoing, the Petition is answered in the following manner:

A. It is not within the scope of practice for a registered nurse who is not a CRNA to administer Diprivan pursuant to a verbal or written order given by an anesthesiologist who remains in the procedure room performing a lumbar epidural steroid injection.

B. It is not within the scope of practice for a registered nurse who is not a CRNA to inject an additional dose of Diprivan through an IV port after the anesthesiologist administered the original dose of Diprivan.

C. It is not within the scope of practice for a registered nurse who is not a CRNA to monitor a patient who has received Diprivan when an R.N. has administered Diprivan pursuant to a verbal or written order given by an anesthesiologist who remains in the room performing a procedure.

D. It is not within the scope of practice for a registered nurse who is not a CRNA to monitor a patient who has received Diprivan even if the anesthesiologist remains in the room performing a procedure.

E. It is not within the scope of practice for a registered nurse who is not a CRNA to monitor a patient who has received Diprivan administered by an anesthesiologist who then performs an eye block and leaves the patient in pre-op while the patient is still unresponsive.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 20th day of February
2002.

BOARD OF NURSING



Dan Coble
Executive Director

NOTICE OF APPEAL RIGHTS

Pursuant to Section 120.569, Florida Statutes, Respondents are hereby notified that they may appeal this Final Order by filing one copy of a notice of appeal with the Clerk of the Department of Health and the filing fee and one copy of a notice of appeal with the District Court of Appeal within 30 days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

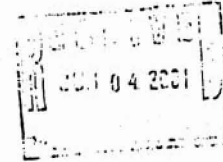
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail to Brenda Sammy, R.N., Manatee Surgical Center, 601 Manatee Avenue West, Bradenton, Florida 34203 and Edward A. Tellechea, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 3239-1050 on this 5th day of March, 2002.

Mari Webb

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05/08/01 Originally Submitted
06/01/01 Revised to meet requirements for a Petition for Declaratory Statement

To: Dr. Ruth Stiehl
Executive Director
Board of Nursing
4080 Woodcock Dr. Suite 202
Jacksonville, Florida 32207



From: Staff Nurses (see attached list and signatures)
Point of Contact: Brenda Sammy RN, MSN (staff nurse PACU)
Manatee Surgical Center
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Petition for Declaratory Statement before the Florida Board of Nursing

The 2000 Florida Statutes Title XXXII Regulation of Professions and Occupations, Chapter 464 Nursing, Part I Nurse Practice Act, Subsection 464.012 Certification of advanced registered nurse practitioners, Subsection 4 (a) The CRNA may... is the statutory provision on which the declaratory statement is sought.

I am a staff nurse employed at a free standing surgery center in Manatee County. The nursing team has been asked by the anesthesiologist involved in pain management and local block procedures to administer Diprivan (Propofol) while he was in the room to perform the procedure. We have refused to do this because this medication is (according to manufacturer's literature) an anesthetic agent, which is to be administered only by persons trained in the administration of anesthesia and airway management. Diprivan takes patients into deep sedation - deeper than conscious sedation, which we are allowed to do.

Currently the anesthesiologist will give the medication IV push and perform the pain management procedure, but the nurse is expected to monitor the patient's airway, cardiac, and respiratory status. The patient is commonly in the prone position, making airway management and patient assessment even more difficult.

In the Pre Op area the anesthesiologists perform eye blocks at the request of several of our ophthalmologists. To prevent any discomfort to the patient, the anesthesiologist injects Diprivan prior to the block. Following the block the anesthesiologist walks away, leaving the nurse to monitor the patient. It is not uncommon for the patient to require 5-20 minutes to recover, and many times the patient requires a jaw thrust to maintain the airway. Sometimes the physician leaves the Diprivan syringe / needle assembly in the IV port and asks the RN to give just a little more if the patient starts to move while the anesthesiologist is performing the eye block.

The anesthesia team believes that, during pain management procedures, they can stop the procedure and assume management of the patient at any time. In the Pre Op area, they believe that it is the nurse's responsibility to recover the patient following the administration of Diprivan (Propofol.)

We, the nursing team, are very uncomfortable because we are not trained to monitor patients in deep sedation or under general anesthesia. We also believe that we are not permitted to do so by the Nurse Practice Act. We are concerned that if there was a crisis and

subsequent lawsuit that we would be considered to be practicing outside of the Nurse Practice Act.

Our main concern is patient safety, and we believe that a trained anesthesia provider must administer Diprivan (propofol) and monitor the patients until they are again in control of their respiratory functions.

Issues / Questions

Is it within the scope of practice of a non-anesthetist RN to administer Diprivan?

- a. If the non-anesthetist RN is given a verbal or written order by the anesthesiologist who is in the procedure room and who will remain in the room performing a procedure such as a Lumbar Epidural Steroid Injection?
- b. If the anesthesiologist has administered Diprivan and kept the syringe filled with Diprivan in the IV Port while he is administering an eye block, when the patient starts to move and the anesthesiologist orders you to give more Diprivan?

Is it within the scope of practice of a non-anesthetist RN to monitor a patient who has received Diprivan?

- a. If the non-anesthetist RN administers the Diprivan at the verbal or written order of the anesthesiologist who is present in the procedure room and who will remain in the room performing a procedure such as a lumbar epidural steroid injection?
- b. If the anesthesiologist administers the Diprivan and is present in the room but involved in a procedure such as a lumbar epidural steroid injection?
- b. If the anesthesiologist administered Diprivan then proceeded with an eye block for the patient but completes the block and leaves the patient in pre-op while the patient is still unresponsive?

It is our understanding that it would not be within the practice of a non-anesthetist RN to administer Diprivan or to monitor patients who have received Diprivan while they are still in a state of deep sedation.

Does the scope of practice of nursing change because an Anesthesiologist is present?

AstraZeneca is the manufacturer of Diprivan. The package insert carries the following warning:

For general anesthesia or monitored anesthesia care (MAC) sedation, DIPRIVAN Injectable Emulsion should be administered only by persons trained in the administration of general anesthesia and not involved in the conduct of the surgical / diagnostic procedure.

According to The 2000 Florida Statutes / Chapter 464 Nursing Part I (Nurse Practice Act 464.012) Certification of advanced registered nurse practitioners, Subsection 4 (a).

The CRNA may administer anesthetic agents and monitor patients who have received anesthetic agents which render them insensible to pain.

If defined there, then only they can do it!

CRNA's have received specialized education and training to prepare them to practice in this advanced role.

The 1991 ANA Position Statement endorses:

The non-anesthetist RN's role in conscious sedation. The patient has a depressed level of consciousness but retains the ability to independently and continuously maintain a patent airway and respond appropriately to physical and or verbal commands.

It does not endorse the non-anesthetist RN's role in deep sedation or general anesthesia.

Joint Commission Perspectives July / Aug 2000

Revised definitions and standards effective Jan 1, 2001.

Changes reflect the continuum of anesthesia including conscious sedation.

Individuals administering moderate or deep sedation and anesthesia are qualified and have the appropriate credentials to manage patients at whatever level of sedation is achieved, either intentionally or unintentionally.

American Society of Anesthesiologists (ASA) Task Force Issued Practice Guidelines for Sedation and Analgesia by Non-Anesthesiologists (1996)

Definition. "Sedation and analgesia" describes a state that allows patients to tolerate unpleasant procedures while maintaining adequate cardiorespiratory function and the ability to respond purposefully to verbal command and /or tactile stimulation. It was noted that patients whose only response is reflex withdrawal from a painful stimulus are sedated to a greater degree than encompassed by "sedation / analgesia."

Additionally, the Task Force recognized that it is difficult for the individual performing a procedure to be fully cognizant of the patient's condition during sedation / analgesia. The consultants supported the contention that the availability of an individual other than the person performing the procedure to monitor the patient's status improves patient comfort and satisfaction; they also strongly supported the view that risks are reduced.

If they acknowledge that it is difficult for the individual performing a procedure to be fully cognizant of the patient's condition during sedation / analgesia, then patient safety would be at a greater risk under deep sedation with Diprivan.

The following staff nurses are concerned about patient safety and practicing within the scope of nursing. We appreciate your review of these issues and anxiously await direction from the Board of Nursing.

<u>Name</u>	<u>Signature</u>	<u>Address</u>	<u>Phone</u> (941)
Candida Ardoin RN	<i>Candida Ardoin RN</i>	7609 San Juan Ave. Bradenton, Florida 34209	794-0335
Annie Amdt RN	<i>Annie Amdt RN</i>	10755 Old Grove Circle Bradenton, Florida 34202	750-0330
Sharon Aucar RN	<i>Sharon Aucar RN</i>	2405 87 th St. NW Bradenton, Florida 34209	795-7430
Tom Ball RN	<i>Tom Ball RN</i>	1216 62 nd St. NW Bradenton, Florida 34209	795-8257
Julie Broxson RN	<i>Julie Broxson RN</i>	8140 136 Ter. E. Parish, Florida 34219	776-1701
Cheryl Clark RN	<i>Cheryl Clark RN</i>	2101 21 st St. W. Palmetto, Florida 34221	729-8340
Kerrie Coffey RN	<i>Kerrie Coffey RN</i>	601 Casabella Dr. Bradenton, Florida 34209	794-0597
Susan Dull RN	<i>Susan Dull RN</i>	6111 Hopkins Dr. N Bradenton, Florida 34207	753-9743
Susan Gravely RN	<i>Susan Gravely RN</i>	4505 Dolphin Lane Palmetto, Florida 34221	723-1211
Donald Greenberg	<i>Donald Greenberg RN</i>	6901 13 th Ave Dr. W Bradenton, Florida 34209	795-5754
Nichola Greenberg	<i>Nichola Greenberg RN</i>	6901 13 th Ave Dr. W Bradenton, Florida 34209	795-5754
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Monica Heyn RN	<i>Monica Heyn RN</i>	3934 75 th St. W #1513 Bradenton, Florida 34209	761-9276
Tracy Hickman RN	<i>Tracy Hickman RN</i>	4550 47 th St. W #310 Bradenton, Florida 34210	761-2817
Lori Hoopingamer RN	<i>Lori Hoopingamer RN</i>	11933 73 rd St. E Parrish, Florida	776-5800
Pauline Houle RN	<i>Pauline Houle RN</i>	800 Kay Rd. NE #1204 Bradenton, Florida 34202	748-8859
Laura Kelly RN	<i>Laura Kelly RN</i>	6710 36 th St. E #97 Palmetto, Florida 34221	729-6771
Georgina Klausung RN	<i>Georgina Klausung RN</i>	3220 51 st Ave. Ter. W Bradenton, Florida 34207	756-0002
Char Panipinto RN	<i>Char Panipinto RN</i>	191 49 th St. W. Bradenton, Florida 34209	747-2642
Erin Paris RN	<i>Erin Paris RN</i>	704 Central Ave. Ellenton, Florida 34222	722-0900
Betsy Prelesnik RN	<i>Betsy Prelesnik RN</i>	3954 75 th St. W #1007 Bradenton, Florida 34209	761-7807
Sarah Robertson RN	<i>Sarah Robertson RN</i>	4803 2 nd Ave. Dr. NW Bradenton, Florida 34209	747-0088
Zina Rolland RN	<i>Zina Rolland RN</i>	5111 76 th St. E Bradenton, Florida 34203	753-1983

Brenda Sammy RN	<i>Brenda Sammy RN</i>	8312 17 th Ave. NW	795-2113
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		7309 16 th Ave. NW	794-1222
Jackie Stovall RN	<i>Jackie Stovall RN</i>	Bradenton, Florida 34209	
		715 46 th St E	745-2827
Melissa Walker RN	<i>Melissa Walker RN</i>	Bradenton, Florida 34208	
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		Bradenton, Florida 34210	

