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STATE OF FLORIDA
BOARD OF NURSING

IN RE: THE PETITION FOR DECLARATORY STATEMENT OF
SANDRA SCHELLHORN, R.N.

Final Order No. DOH-03-0405-DS-MOA
FILED DATE - 4/29/03
Department of Health

By: Vicki R. Kenon
Deputy Agency Clerk

FINAL ORDER

THIS MATTER came before the Board of Nursing ("Board") pursuant to Section 120.565, Florida Statutes, at a duly-noticed public meeting held in Orlando, Florida, on February 13, 2003, for the purpose of considering the Petition for Declaratory Statement filed by Sandra Schellhorn, R.N., Director of Nursing, Baptist Medical Center, Jacksonville, Florida ("Petitioner"). Notice of the petition was published in the Florida Administrative Weekly on February 7, 2003, at Volume 29, Number 6. The notice indicated that the petition was filed by "Baptist Medical Center." Having considered the petition, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Petitioner is a Registered Nurse licensed to practice nursing in the state of Florida.
2. Section 464.003(3)(a), Florida Statutes, defines the practice of professional nursing as "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."
3. Section 464.012(4)(a), Florida Statutes, provides that a Certified Registered Nurse Anesthetist (CRNA) "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."

4. Diprivan® is an intravenous sedative/hypnotic agent and is indicated for induction and maintenance of general anesthesia in adults; adult sedation in monitored anesthesia care; intensive care unit sedation for intubated, mechanically ventilated adults; pediatric anesthesia (with age-specific limitations); neuroanesthesia; and cardiac anesthesia.

5. Petitioner asks the following questions:

a. Is it within the scope of practice for a registered nurse who is not a CRNA to administer Diprivan (propofol) for the purpose of sedation to a monitored, intubated and mechanically ventilated patient who is located in an intensive care setting, pursuant to a verbal or written order given by a licensed independent practitioner?

b. Is it within the scope of practice for a registered nurse who is not a CRNA to monitor an intubated and mechanically ventilated patient receiving Diprivan (propofol) for the purpose of sedation, pursuant to a verbal or written order given by a licensed independent practitioner?

CONCLUSIONS OF LAW

6. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

7. The Board answers both of the Petitioner's questions in the affirmative, provided that the registered nurse is trained and certified in Advanced Cardiac Life Support, and is following the established policies and procedures of the facility where the nurse performs the acts indicated.

8. This Order constitutes final agency action and may be appealed by any party pursuant to Section 120.68, Florida Statutes, and Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, by filing a notice of appeal conforming to the requirements of Rule 9.110(d), Florida Rules of Appellate Procedure, both with the appropriate District Court of Appeal, accompanied by the appropriate filing fee, and with the department's clerk of agency proceedings, within thirty (30) days of rendition of this Order.

DONE AND ORDERED this 24 day of April, 2003.

BOARD OF NURSING



Dan Coble, Executive Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail to Barbara Mashour-Smith, R.N., 800 Prudential Drive, Jacksonville, Florida 32207; and to Susan B. Bodell, Assistant Attorney General, Office of the Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050, this ____ day of _____, 2003.



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BAPTIST MEDICAL CENTER
800 Prudential Drive
Jacksonville, FL 32207

Sandra J. Schellhorn, RN, BSN, MBA
Director of Nursing
Adult Nursing
904-202-3265 PH 2:16

OFFICE OF THE CLERK

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Nicki R. Kerom*
DATE 1/6/03

January 3, 2003

Department of Health's Agency Clerk's Office
4052 Bald Cypress Way
Bin #A02
Tallahassee, FL 32399-3252

Re: Petition for Declaratory Statement before the Florida Board of Nursing

A declaratory statement is sought based on:

1. The 2002 Florida statutes Title XXXII regulation of Professions and Occupations, Chapter 464 Nursing, Part Nurse Practice Act, 464.012, Subsection 4(a) The certified registered nurse anesthetist may...
2. Recent Florida Board of Nursing final order No. DOH-02-0365-DS-MQA (file date 3-5-02)

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OFFICE OF THE CLERK

To Whom it May Concern:

I am writing on behalf of Baptist Medical Center. As the Director of Nursing for the Cardiovascular Services, the use of propofol in our ICU is of the utmost concern to me. BMC would like to determine if the administration and management of Diprivan (propofol) for a monitored patient who is intubated and mechanically ventilated and is in our intensive care settings, is within the scope of practice for the registered nurse, who is not a CRNA. Specifically BMC would appreciate a response to the following questions:

1. Is it within the scope of practice for a registered nurse, who is not a CRNA, to administer Diprivan (propofol) for the purposes of sedation, to a monitored, intubated and mechanically ventilated patient who is located in an intensive care setting, pursuant to a verbal or written order given by a licensed independent practitioner?
2. Is it within the scope of practice for a registered nurse, who is not a CRNA, to monitor an intubated and mechanically ventilated patient receiving Diprivan (propofol) for the purposes of sedation, pursuant to a verbal or written order given by a licensed independent practitioner?

As per your recommendation at the December 12, 2002 hearing by the Practice Committee, I am enclosing these items for your consideration:

1. Nurse Practice Acts and/or state BON opinions regarding the use of Diprivan from California, Arizona and Kentucky
2. Survey of several Florida hospitals regarding their use of Diprivan in the ICU for intubated and ventilated patients
3. Letters of testimony by physicians regarding the administration of Diprivan by registered nurses
4. Literature search - articles supporting the practice of registered nurses administering Diprivan
5. Manufacturer's product information- Astra Zeneca

In our research of this issue we have determined that the use of Diprivan (propofol) for patients described previously is widespread throughout the state of Florida, and throughout the United States. Few nurse practice acts have specific language addressing the issues, but many state boards of nursing have clarified their approval of this practice in their published opinions and/or their "Question and Answer" sections of their websites.

There are far more "dangerous" drugs which are widely used by the ICU registered nurse, which are NOT regulated by state nurse practice acts. Vasoactive infusions, paralyzing agents, and potent sedative agents such as pentobarbital infusions, are a few, and some of these are not reserved solely for the intubated patient. Diprivan, while classified as an anesthetic agent, has dosing ranges for both sedation and anesthesia, making its use well documented beyond anesthesia.

The Joint Commission on Accreditation for Healthcare Organizations stipulates that moderate or deep sedation must be provided by qualified individuals and recommends that healthcare organizations document the practice of moderate or deep sedation in its policies and procedures. It lists the qualifications of individuals providing moderate or deep sedation as competency-based education, training and experience in:

1. Evaluating patients prior to performing moderate or deep sedation and
2. Performing the moderate or deep sedation to include methods and techniques required to rescue those patients who unavoidably or unintentionally skip into a deeper-than-desired level of sedation or analgesia. This includes the following:
 - a. Practitioners who have appropriate credentials and are permitted to administer moderate sedation are qualified to rescue patients from deep sedation and are competent to manage a compromised airway and to provide adequate oxygenation and ventilation.
 - b. Practitioners who have appropriate credentials and are permitted to administer deep sedation are qualified to rescue patients from general as well as a compromised airway and inadequate oxygenation and ventilation.¹

Registered nurses experienced in intensive care units meet these qualifications, and in most instances far exceed these qualifications.

Representatives from Baptist Medical Center including myself, will be attending the next board meeting. Please notify us of when this discussion will fall on your agenda. I look forward to further discussion with you. Should you have any questions, please contact me directly at

Sincerely,



Sandra J. Schellhorn, RN, BSN, MBA
Director of Nursing

cc: Tracy Williams, Vice President Patient Care Services