

By: Heather Coleman
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF NURSING

IN RE: **PETITION FOR DECLARATORY STATEMENT**
KATHERINE SCHOLL, RN

FINAL ORDER

This matter came before the Board of Nursing (hereinafter the "Board") on December 4-5, 2003 in Ft. Lauderdale, Florida, for consideration of the referenced Petition for Declaratory Statement. The Notice of petition for Declaratory Statement was published on November 21, 2003 in Volume 29, No.47., in the Florida Administrative Weekly.

The petition filed by *Katherine Scholl, RN* inquired as to the following:

1. Is it within the scope of practice for a registered nurse in the state of Florida trained as a Sexual Assault Nurse Examiner ("SANE") to perform sexual battery examinations including speculum exams for evidence/specimen collection under the direct supervision of a Florida licensed physician in a hospital emergency department?
2. Does the Board adopt the use of the International Association of Forensic Nurses model for SANE training of registered nurses including training in speculum exams for evidence/specimen collection purposes?
3. Is it within the scope of practice for a registered nurse in the state of Florida trained as a SANE and in compliance with established policies, procedures and protocols of the U.S. Department of Justice to perform sexual battery examinations including speculum exams for evidence/specimen collection under the supervision of a Florida licensed physician in a community-based setting?
4. Is it within the scope of practice for a registered nurse in the state of Florida trained as

a Sexual Assault Nurse Examiner-Pediatric (“SANE-P”) to perform sexual battery examinations including speculum exams for evidence/specimen collection on a pediatric (Tanner Stage 1 and 2) victim of sexual battery?

5. Is it within the scope of practice for a registered nurse in the state of Florida trained as a Sexual Assault Nurse Examiner-Adolescent (“SANE-A”) to perform sexual battery examinations including speculum exams for evidence/specimen collection on an adolescent (Tanner Stage 3, 4, and 5) victim of sexual battery?

Findings of Fact

1. The Petitioner is a registered nurse licensed in the state of Florida.
2. The Petitioner is trained as a SANE.
3. SANE’s training includes but is not limited to the following:
 - a. SANE and it’s functions within the Sexual Assault Response Team Model established by the U.S. Department of Justice;
 - b. An understanding of the roles the victim advocates, law enforcement and the judicial system have with victims of sexual battery and the prosecution of the case;
 - c. Normal human anatomy (Tanner Stages 1 through 5) and normal human sexual response;
 - d. Evidence collection including clothing, swabs, slides, and hair combings;
 - e. Speculum exams for the purpose of evidence and Sexually Transmitted Disease (“STD”) collection only; and
 - f. A basic understanding of the pregnancy prevention and STD prophylaxis medications utilized for sexual batter victims.
4. SANE-A training includes 40 hours of didactic specialized training in provided

evidence collection examinations for adults and adolescents (Tanner Stages 3, 4, and 5) victims of sexual battery.

5. SANE-P training includes specialized training with regard to evidence collection examinations for pediatrics (Tanner Stages 1 and 2) victims of sexual battery.

6. The International Association of Forensic Nurses, with the support of the U.S. Department of Justice, American College of Emergency Physicians, American Nurses Association, and Emergency Nurses Association, has established training and certification guidelines for registered nurses as Sexual Assault Nurse Examiners.

7. Sexual Assault Nurse Examiners are registered nurses with advanced education in forensic examination of sexual assault victims.

8. SANE programs have been operating throughout the United States for more than 20 years.

Conclusions of Law

9. The Board of Nursing has authority to issue this Final Order pursuant to section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

10. Section 464.003, F.S., defines the practice of professional nursing and the practice of practical nursing.

11. Section 464.018(n), F.S., makes it a disciplinary violation for a licensed nurse to fail to meet the minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the licensee is not qualified by training or experience.

12. It is within the scope of practice for a registered nurse in the state of Florida trained as a SANE to perform sexual battery examinations including speculum exams for the sole purpose of evidence/specimen collection under the direct supervision of a Florida licensed

physician in a hospital emergency department.

13. The Board recognizes the use of any training model for SANE training of registered nurses including training in speculum exams for evidence/specimen collection purposes so long as the training model is accepted by the U.S. Department of Justice.

14. It is within the scope of practice for a registered nurse in the state of Florida trained as a SANE and in compliance with established policies, procedures and protocols of the U.S. Department of Justice to perform sexual battery examinations including speculum exams for evidence/specimen collection under the supervision of a Florida licensed physician in a community-based setting.

15. It is within the scope of practice for a registered nurse in the state of Florida trained as a SANE-P to perform sexual battery examinations including speculum exams for evidence/specimen collection on a pediatric (Tanner Stage 1 and 2) victim of sexual battery.

16. It is within the scope of practice for a registered nurse in the state of Florida trained as a Sexual Assault Nurse Examiner-Adolescent/Adults (“SANE-A”) to perform sexual battery examinations including speculum exams for evidence/specimen collection on an adolescent (Tanner Stage 3, 4, and 5) victim of sexual battery.

17. It is not within the scope of practice for a registered nurse in the state of Florida trained as a SANE to conduct a sexual battery pelvic exam for diagnostic purposes.

18. A Florida licensed physician must always be available for patient assistance when a Florida registered nurse trained as a SANE is conducting a sexual battery examination.

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

DONE AND ORDERED this 20 day of February, 2004.

BOARD OF NURSING



Dan Coble, RN, PhD,
Executive Director *on behalf of*
ROSA RAMOS, RN, CHAIR

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by certified mail to Katherine Scholl, 362 Summers Creek Drive, Merritt Island, FL, 32952, and by interoffice delivery to Rosanna Catalano, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, FL 32399-1050, and William Large, General Counsel, Department of Health, 4052 Bald Cypress Way, Bin A-02, Tallahassee, FL 32399-1703 this 20 day of January, 2004.

Shawen Sykes

RC
1/17/04