



KENTUCKY BOARD OF NURSING

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ADVISORY OPINION STATEMENT

RESUSCITATION ORDERS, PRONOUNCEMENT OF DEATH, AND DEATH CERTIFICATES

The Kentucky Board of Nursing is authorized by Kentucky Revised Statutes (KRS) Chapter 314 to regulate nurses, nursing education and practice, promulgate regulations and to issue advisory opinions on nursing practice, in order to assure that nurses provide safe and effective nursing care to the citizens of the Commonwealth.

The Kentucky Board of Nursing issues advisory opinions as to what constitutes safe nursing practice. As such, an opinion is not a regulation of the Board and does not have the force and effect of law. It is issued as a guideline to licensees who wish to engage in safe nursing practice.

Opinion: RESUSCITATION ORDERS, PRONOUNCEMENT OF DEATH, AND DEATH CERTIFICATES

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Accountability and Responsibility of Nurses

KRS 314.021(2) states: All individuals licensed under provisions of this chapter shall be responsible and accountable for making decisions based upon the individuals' educational preparation and experience in nursing and shall practice nursing with reasonable skill and safety.

Rationale for Advisory Opinion

The Kentucky Board of Nursing has received multiple inquiries regarding the role of nurses in the implementation of Do Not Resuscitate (DNR) orders, resuscitation with a DNR order, the implications of a documented advance directive without a DNR order, pronouncement of death, and signing death certificates.

Advisory Opinion

Resuscitation

The Board has addressed portions of these inquiries in the past. In February 2003, it was the advisory opinion of the Board that a nurse would not start cardiopulmonary resuscitation (CPR) when:

There is a valid order not to attempt resuscitation of the patient in the event of an apparent cardiac/pulmonary arrest (absence of pulse and respirations, determined by assessment using inspection, palpitation and auscultation); these are often referred to as “do not attempt resuscitation” (DNAR) or “do not resuscitate” (DNR) orders; injuries incompatible with life or obvious signs of death are present. The most reliable obvious signs of death include general bluish discoloration of the skin as in pooling of blood in dependent body parts (dependent livido); hardening of muscles or rigidity (rigor mortis); cooling of the body following death (algor mortis).

Nurses are accountable in an emergency to resuscitate individuals unless situations cited above are present. This accountability would include the responsibility of the nurse for knowing the code status of the assigned patient(s).

CPR

All facilities/agencies should have written policies, procedures and protocols related to resuscitation. Nurses should follow written agency policies, procedures and protocols when performing resuscitation measures in addition to complying with Kentucky laws and regulations.

When a nurse is employed in a setting where help is not readily available (e.g. assisted living facility, personal care home ...), the nurse should follow established emergency protocols to assess the scene and individual to determine if assistance is needed, contact 911 for assistance, and then initiate CPR.

Once CPR is initiated, the nurse shall continue CPR until:

- The patient is revived;
- The nurse is relieved by an individual who holds a current clinical certification in Basic Life Support (BLS) or Advanced Cardiac Life Support (ACLS); or
- The nurse is unable to physically continue resuscitation efforts and no other qualified individual is available; or
- The nurse shall seek a provider order to stop CPR, and continue CPR until said order is obtained.

AOS 26 – Roles of Nurses in the Performance of Advanced Life Support and Delivery of Emergency Medical Care via Ambulance Services states:

The licensed practical nurse may assist others in the performance of advanced life support procedures and provide basic life support procedures; however, the performance of advanced life support procedures is not within the scope of licensed practical nursing practice. ...

Registered nurses who perform advanced life support procedures for patients with life threatening conditions or in emergencies are responsible for having adequate preparation and experience to perform such acts as required by KRS 314.021(2). The registered nurse should have documented evidence of completion of continuing education, which

provides for clinical practice and demonstration of competency in the performance of such procedures. It is the responsibility of the nurse to maintain documented evidence of educational preparation and demonstrated continuing competency in the performance of the procedures.

Nurses with moral or religious objections to the DNR order, are responsible for communicating those objections to the nurse's supervisor, and the patient/surrogate and facilitating the transfer of patient care to another care provider, in order to honor the patient/surrogate's wishes.

Advance Directives and Living Wills

The *Kentucky Living Will Directive Act* sets forth the laws pertaining to advance directives within the state. If a patient has an advance directive or living will, these documents would come into effect when one of three conditions apply (KRS 311.625):

- (1) The patient no longer has decisional capacity;
- (2) The patient has a terminal condition; or
- (3) The patient becomes permanently unconscious.

In such situations, the wishes of the patient as expressed through the advance directive or living will would take precedence over a DNR order.

KRS 311.623(2) states:

“Except as provided in KRS 311.633, a living will directive made pursuant to this section shall be honored by a grantor's family, regular family physician or attending physician, and any health care facility of or in which the grantor is a patient.”

KRS 311.633 subsections (1) and (2) state:

“1) It shall be the responsibility of the grantor or the responsible party of the grantor to provide for notification to the grantor's attending physician and health care facility where the grantor is a patient that an advance directive or a medical order for scope of treatment has been made. If the grantor is comatose, incompetent, or otherwise mentally or physically incapable, any other person may notify the attending physician of the existence of an advance directive or a medical order for scope of treatment. An attending physician who is notified shall promptly make the living will directive or a copy of the advance directive or a medical order for scope of treatment a part of the grantor's medical records.

2) An attending physician or health care facility which refuses to comply with the advance directive or a medical order for scope of treatment (MOST) made pursuant to KRS 311.6225 of a patient or decision made by a surrogate or responsible party shall immediately inform the patient or the patient's responsible party and the family or guardian of the patient of the refusal. No physician or health care facility which refuses to comply with the advance directive or medical order for scope of treatment of a qualified patient or decision made by a responsible party shall impede the transfer of the patient to another physician or health care facility which will comply with the advance directive or medical order for scope of treatment. If the patient, the family, or the guardian of the patient has requested and authorized a transfer, the transferring attending physician and health care facility shall supply the patient's medical records and other information or assistance medically necessary for the continued care of the patient, to the receiving physician and health care facility.”

Nurses caring for patients with documented advance directives or living wills made a part of the medical record, are required to honor those directives, unless they have complied with KRS 311.633(2).

Pronouncement of Death and Signing Death Certificates

Licensed Practical Nurses

- A. It is NOT within the scope of licensed practical nursing to declare death or sign the provisional report of death or death certificate.
- B. It is within the scope of licensed practical nursing practice in KRS 314.011(10), that a licensed practical nurse may observe, assess, and notify the attending physician or advanced practice registered nurse of clinical findings.
- C. Upon reporting the clinical findings to the physician, and in accordance with facility policy, the LPN may accept reasonable physician/APRN's orders regarding the care of the client (i.e.: notification of family, postmortem care, contacting the funeral home or appropriate legal authority, documentation). However, a LPN may not accept an order that would require the LPN to "pronounce death," or to complete the state-required "medical certification" of a death that occurs without medical attendance.

Registered Nurses

A registered nurse employed by a health facility as defined in KRS 216B.015, may pronounce death in accordance with the requirements of KRS 446.400. "The nurse shall notify the patient's attending physician or other appropriate practitioner of the death in accordance with the facility's policy. The registered nurse is authorized to sign the provisional report of death as furnished by the state registrar of vital statistics." KRS 314.181 Determination of death by registered nurses – Notification.

The registered nurse shall, when responding to a patient, first attempt resuscitation, unless the protocol indicates that the patient is not capable of being resuscitated. In the event that a registered nurse employed by an ambulance service determines that death has occurred, the registered nurse shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.

Advanced Practice Registered Nurses

- A. In 2002, the Board issued an advisory opinion that it is within the scope of advanced registered nursing practice for the ARNP (APRN), qualified by educational preparation and current clinical competency, to issue orders for "do not resuscitate".
- B. Moreover, by enactment in 2016 by KRS 213.076, a death certificate may be signed by an advanced practice registered nurse (APRN).

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Determining Scope of Practice

KRS 314.021(2) holds all nurses individually responsible and accountable for the individual's acts based upon the nurse's education and experience. Each nurse must exercise professional and prudent judgment in determining whether the performance of a given act is within the scope of practice for which the nurse is both licensed and clinically competent to perform. In addition to this advisory opinion statement, the Kentucky Board of Nursing issued Advisory Opinion Statement #41 RN/LPN Scope of Practice Determination Guidelines which contains the KBN Decision-Making Model for Determining Scope of Practice for RNs/LPNs and published the APRN Scope of Practice Decision Making Model providing guidance to nurses in determining whether a selected act is within an individual nurse's scope of practice now or in the future. Copies of Advisory Opinion Statement #41 RN/LPN Scope of Practice Determination Guidelines and the APRN Scope of Practice Decision Making Model may be downloaded from the Board's website <http://www.kbn.ky.gov>.