Kentucky Board of Nursing

Jurisprudence Examination Study Guide

November 2015

Introduction

The Kentucky Board of Nursing (KBN) Jurisprudence Course provides nurses and all other stakeholders a concise explanation of the Kentucky Nursing Laws (KRS 314), Administrative Regulations (201 KAR 20) and Advisory Opinions. These documents can be accessed in their entirety on the Kentucky Board of Nursing website; links to these documents are also embedded throughout the course.

This course is written to accompany the Kentucky Jurisprudence Examination, which must be completed by all licensure applicants. It is the intent of KBN that this content serves as a guide for nurses and provides a foundation for safe practice in the delivery of quality care for all citizens of the Commonwealth.

Kentucky Board of Nursing

The Kentucky Board of Nursing (KBN) is an agency of the Commonwealth of Kentucky, governed by the Kentucky Nursing Laws, which are found in the Kentucky Revised Statutes (KRS) Chapter 314. Some refer to the Kentucky Nursing Laws as the Nurse Practice Act. The purpose of nursing regulation in Kentucky is public protection.

The Governor appoints 16 members to the Board of the KBN. Of these, 9 are registered nurses (RN), 1 is a nursing service administrator, 3 are licensed practical nurses (LPN), 2 are non-nurse consumers, and 1 is an advanced practice registered nurse (APRN), per KRS 314.121 (1) (a-e).

Though the KBN is an arm of the state government, the Board is fiscally self-sustaining through the collection of fees for licensure services and mandatory fines collected from disciplinary action.

The Board receives no money from state tax revenues.

Why Regulations Matter

Nursing is regulated because, as a health profession, it poses risk of harm if practiced by the unqualified and incompetent. Nursing regulation protects the health, safety and welfare of a

public vulnerable to unsafe practitioners. Regulation also provides a mechanism for documentation of educational preparation and ongoing clinical competency. Nurses provide access to information about healthcare and assist consumers in dealing with injury and illness.

Regulation of nursing practice helps to assure that consumers get reliable information and safe care, services that they are seeking from their care providers. Regulatory boards also provide a process for approval of nursing education programs. Kentucky law sets nursing faculty education requirements, faculty to student clinical ratios, and guidelines for program of nursing curricula.

Why Regulations Matter (2)

The duties of the Kentucky Board of Nursing (KBN) include the following tasks:

- Enforcing the Kentucky Nursing Laws and nurse licensure requirements
- Approving nurse education programs in school and universities
- Developing laws and administrative regulations
- Taking disciplinary action when the nurse provide unsafe nursing care or otherwise violates KRS Chapter 314

Scopes of practice vary from state-to-state; therefore, nurses are responsible for knowing the regulatory requirements for nursing and the nurse practice act in every state in which they practice. According to Kentucky law, all individuals licensed or privileged to practice in Kentucky shall be responsible and accountable for making decisions that are based upon their educational preparation and experience and shall practice with reasonable skill and safety (KRS 314.021(2)).

The Kentucky Nursing Laws

The Kentucky Nursing Laws are enforced by KBN. Nurses must comply with these laws and related regulations in order to obtain and maintain their licenses. The laws, among other things, describe the following:

- Qualifications for licensure
- Nursing titles that are allowed to be used
- Scope of practice (what the nurse is allowed to do)
- Actions that can or will happen if the nurse does not follow the nursing law

Professional Associations

The Kentucky Board of Nursing (KBN) recognizes that some confusion exists in what nurses perceive to be the scope and function of the Board of Nursing as compared to that of nursing professional associations.

Nursing professional associations are private organizations that advance the nursing profession by addressing the practice, political and professional issues affecting nurses. They carry out this mission by establishing standards of nursing practice, promoting the economic and general

welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and lobbying the legislature and regulatory agencies on behalf of health care issues impacting nurses and the public. Membership in these organizations is voluntary for nurses. The list of nursing professional organizations or associations is an extensive one.

Lesson 1 - Licensure

Licensure & Credentialing

A nursing license is mandatory in Kentucky if an individual wishes to use the title advanced practice registered nurse (APRN), registered nurse (RN) or licensed practical nurse (LPN). If one holds herself/himself out to be an APRN, a RN or LPN, a license is required even though an individual is not employed as a nurse.

KRS 314.101 (1) (a)-(e) allows the following **without** a Kentucky nursing license:

- The practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the Board or in graduate programs in nursing
- The practice of any currently licensed nurse of another state practicing in this state during an emergency, occurring in this state or any other state, declared by the President of the United States or the Governor of Kentucky
- The practice of any legally qualified nurse of another state who is employed by the United States government
- The practice of any currently licensed nurse of another state whose responsibility includes: transporting patients into, out of, or through this state; providing nursing consulting services; or presenting a continuing education program
- The practice of volunteer health practitioners under KRS 39A.

Nurse Licensure Compact

Kentucky is a member of the Nurse Licensure Compact. This means that for nurses in good standing, KBN will issue a multi-state license that grants Kentucky nurses the privilege to practice in other compact states. In order for a nurse to have a compact license, he/she must declare his/her permanent residence in a state that is a member of the compact and have an unencumbered (no current disciplinary action or not participating in an alternative discipline program) active RN or LPN license.

Once a nurse has an active compact license in his/her primary state of residence (home state), the nurse has the privilege to practice nursing in other compact states (remote states). You can use this link to access a list of current NLC Member States.

The nurse is required to follow the nursing laws/regulations where he/she is practicing nursing. The nurse is also required to follow the nursing laws/regulations for licensure in the state of his/her primary residence.

Should the nurse violate nursing laws and regulations, the remote state may take disciplinary action on the nurse's privilege to practice in their state; the home state may also take disciplinary action on the nurse's license.

At this time, the compact does not apply to APRNs. If an APRN holds a compact (multi-state) RN license, he/she is still required to obtain a Kentucky APRN license to practice in the advanced registered nursing practice role.

Nurse Licensure Compact (2)

Nurses changing their primary residence from one compact state to another have thirty (30) days to endorse into the new compact state. A nurse may only be licensed in one compact state and that is the state of residency. A temporary work permit issued by a compact state prior to licensure by endorsement is valid in other compact states. Provisional licenses or other temporary permits issued prior to passing NCLEX are not valid in other compact states.

A nurse who claims his/her primary residence in a state that does not belong to the compact (non- compact state) must obtain a license in every state in which he/she practices nursing. If a nurse changes his/her primary residence to a non-compact state, the Kentucky license will become a non- compact, single state license and he/she can no longer practice in other compact states on the single-state license.

Current Mailing Address

The Kentucky Nursing Law requires all nurses to maintain a current mailing address with the Board of Nursing. According to KRS 314.107, any person licensed by the Board shall maintain a current mailing address with the Board and shall **immediately** notify the Board in writing or change their address online at kbn.ky.gov

Criminal History Reporting

All applicants for licensure in Kentucky are required to report any misdemeanor and/or felony conviction(s) EVER received by listing each occurrence on the application for licensure. A certified copy of the disposition page of the court record of each misdemeanor and/or felony must be submitted to KBN, along with a letter of explanation. Driving under the influence (DUI) convictions are required to be reported. Traffic violations do not have to be reported. Other than a driving under the influence (DUI) conviction, traffic violations do not have to be reported.

Failure to report any criminal conviction EVER received is deemed to be falsification of the application and subjects the applicant to potential disciplinary action by KBN.

Criminal History Reporting (2)

Use the following table to determine if a criminal conviction must be reported and the required documentation.

MUST REPORT	SUBMIT
ALL FELONIES	Certified course documents and a detailed letter of explanation
ALL misdemeanors, including DUIs, received **within** 5 years of the date of the application	Certified court documents and a detailed letter of explanation
ALL misdemeanors, including DUIs, received **prior to** 5 years of the date of the application	Must report, but no documentation is required

Criminal Background Checks

Kentucky Law requires applicants for licensure by examination and reinstatement to submit a state and federal criminal background check.

The state criminal history report must be obtained from the Administrative Office of the Courts (AOC), Courtnet Disposition System. If an applicant applies for the background check using the AOC online request form and lists licensure as the purpose of the request, AOC will send the criminal history report electronically to KBN.

Federal criminal background checks, via the fingerprinting process, are required from all applicants for licensure (except renewals). KBN's statutory authority for obtaining fingerprint reports is KRS 314.103. The federal background report is obtained for the sole purpose of licensure. All fingerprint cards are submitted directly to the Kentucky State Police (KSP) with the required processing fee. The KSP will provide a list of individuals who submitted fingerprint cards to KBN before submitting the fingerprints electronically to the Federal Bureau of Investigation (FBI). The FBI runs the fingerprints against the National Crime Information Center (NCIC) and returns a report for each fingerprint to the KSP within 24 hours. The KSP will send the reports to KBN, usually within 4 weeks.

Reporting Disciplinary Action

All applicants for a Kentucky nursing license must report any action pending (open) and/or any final action taken on a nursing license or other professional license in any other state, as detailed below:

MUST REPORT	SUBMIT
Denial of a nursing license, for reasons other than being unsuccessful on the nurse licensure examination	Certified copies of the Board's order/agreement and a letter of explanation
Disciplinary action on a nursing license or privilege to practice in any state	Certified copies of the Board's order/agreement and a letter of explanation
Disciplinary action or complaint pending (open) on a nursing license or privilege to practice in any state	Certified copies of the Board's order/agreement and a letter of explanation
Current participation in a state board monitoring program, including alternative to discipline, diversion or peer assistance programs	Certified copies of the Board's order/agreement and a letter of explanation
If any licensing or regulatory authority in any U.S. state or jurisdiction EVER denied, limited, suspended, probated, revoked or otherwise disciplined a nursing or other professional or occupational license, certificate, or multi-state privilege to practice	Certified copies of the Board's or other licensing authority's order/agreement and a letter of explanation

Continuing Education Post-Licensure

The following continuing education (CE) hours must be earned after licensure by examination, endorsement, or reinstatement:

Area of Study	CE Hours Required	Completion Date	Legal Authority
Domestic Violence	3	Within three (3) years of licensure	KRS 194A.540
Pediatric Abusive Head Trauma	1.5	Within three (3) years of licensure	KRS 314.073

Address and Name Change

KRS 314.107 requires licensees to notify KBN of an address change. Legal documentation is required for a name change and includes such items as: a copy of a marriage license, divorce decree granting legal authority to change the name, other court ordered documents, or a copy of a Social Security card.

Licensure by Examination

In Kentucky, to be eligible for licensure by examination (201 KAR 20:070), the following criteria must be met:

1. Completion of a Board approved pre-licensure program of nursing
2. Ability to read, write, and speak English
3. Submission of a completed application and the required fee
4. The results of the State Criminal Background Check
5. Submission of a fingerprint card and fee
6. Completion of the KBN Jurisprudence Examination
7. A Federal Criminal Background Check from the FBI, resulting from the reading of the fingerprint card (indented)
8. Successful completion of the National Council Licensure Examination (NCLEX®)

A provisional RN or LPN license may be issued when requirements 1 through 6 above are met.

Provisional License

The provisional license allows an individual to begin employment as a registered nurse applicant (RNA) or licensed practical nurse applicant (LPNA). While practicing under the provisional license, the RNA must practice under the direct supervision of an APRN or RN, and the LPNA, under the direct supervision of an APRN, RN, or LPN. The provisional license is valid for six months or until KBN receives notification that the applicant was unsuccessful on NCLEX®.

Direct patient care is not only “hands on” care given at the bedside, but also additional nursing activities such as multidisciplinary meetings, obtaining and giving report, charting, communicating with physicians, etc. The intent of the law is to ensure that the newly graduated nurse will have a licensed nurse readily available should he/she have questions or need immediate assistance.

When all regulatory requirements are met (items 1 through 8 on the previous page), a permanent license may be issued and the applicant may begin practicing as a RN or LPN.

Licensure by Endorsement

Nurses licensed in either non-Nurse Licensure Compact states who wish to practice in Kentucky or who are licensed in a compact state and are declaring Kentucky as the primary state of residence may obtain a Kentucky license by applying for licensure by endorsement (201 KAR 20:110). The following minimum criteria must be met:

1. Completion of a Board approved pre-licensure program of nursing
2. Ability to read, write, and speak English
3. Submission of a completed application and the required fee
4. Submission of a fingerprint card and fee
5. An official transcript, if the state of original licensure was California, Connecticut, Kansas, Washington State, Georgia, Hawaii, Pennsylvania or from any state that does not validate graduation from an approved program of nursing
6. Evidence of continuing competency (see table on following page)
7. Completion of the KBN Jurisprudence Examination
8. A Federal Criminal Background Check from the FBI, resulting from the reading of the fingerprint card
9. Verification of original licensure, which includes licensure examination results, date of licensure examination, date of original licensure, and validation of graduation from an approved program of nursing

Licensure by Endorsement (2)

Use the table below to determine practice and continuing education requirements for licensure by endorsement.

If you:	Is the Requirement Met?	Documentation Needed
Graduated within the past 1 year	Yes	No documentation is needed
Were licensed within the 5 years preceding the date your application was received at KBN	Yes	No documentation is needed
Practiced as a nurse a minimum of 500 hours within the 5 years preceding the date your application was received at KBN	Yes	No documentation is needed
Practiced as a nurse for at least 100 hours within the 5 years preceding the date your application was received at KBN	No	Contact the Endorsement Coordinator
Have not practiced as a nurse at least 500 hours within the 5 years preceding the date your application was received at KBN	No	Evidence of completing either 120 continuing education hour or completion of a refresher course
Completed a refresher course (didactic and clinical components) within the 5 years preceding the date your application was received at KBN	Yes	Certification of completion of both components of the refresher course

Verification of Original Licensure

Verification of original licensure, which includes licensure examination results, date of licensure examination, date of original licensure, and validation of graduation from an approved program of nursing, must be submitted to the KBN directly from the Nursys® verification system or the licensing board. Nursys® is a national database for verification of nurse licensure, discipline, and practice privileges.

As an example, if your state of original licensure is a Nursys® participant, you must go to nursys.com to request a verification to be sent to KBN. If your state of original licensure is not a

Nursys®-participating state, you must contact your board of original licensure to have a verification sent to KBN. A list of participating states can be found at nursys.com.

Temporary Work Permit

An applicant for licensure by endorsement may be eligible for a temporary work permit (TWP) that is valid for six months from the date of issue. This TWP allows the RN or LPN to practice the full scope of nursing pending issuance of the Kentucky license. Failure to meet all licensure requirements prior to the expiration of the TWP requires the applicant to submit another application for licensure by endorsement, fingerprint card and fees, and the individual is no longer eligible for a TWP. When the TWP expires, the individual may no longer practice as a nurse in Kentucky until permanent licensure is issued.

No temporary work permit is issued to APRNs. An APRN license must be issued before practicing in the advanced registered practice nursing role.

Licensure Renewal

After a nurse is issued a license to practice, that license must be maintained through a renewal process. All nurses are required to attain continuing competency with each renewal. A complete list of acceptable competencies for renewal can be found on the KBN website. In Kentucky, nurses must renew a license by midnight October 31st of every year. The renewed license is active for one year beginning on November 1. Email notifications with renewal information are sent to all nurses who provided KBN with a valid email address. Additionally, renewal notices are posted in the KBN Connection, which is mailed to all licensees.

If you hold a Kentucky nursing license, click on the link to update your email address.

Applicants for renewal must follow the same process for reporting criminal convictions as described above. In addition, licensees are required to submit documentation of any disciplinary action pending on licenses in other jurisdictions. The renewal process for APRNs, RNs and LPNs is accomplished online at the KBN website. After a license is renewed, an email notification is sent to nurses who provided KBN with a valid email address.

Reinstatement of a Lapsed License

A license shall lapse if the licensee fails to meet all the requirements for renewal before the current expiration date (KRS 314.071 and 201 KAR 20:230). A lapsed license must be reinstated to enable the nurse to practice in Kentucky. Practicing without a current license may subject the individual to the disciplinary action process.

Requirements for reinstating a lapsed license include the following:

1. Submission of a completed application and the required fee
2. The results of the State Criminal Background Check
3. Submission of a fingerprint card and fee

4. Competency validation via employment as a licensed nurse in another state, or earning the required continuing education, or completion of a refresher course (201 KAR 20:225)
5. Individuals applying for reinstatement of a lapsed license within one year of the date the license lapsed may provide the renewal competency requirements as evidence of competency validation
6. Completion of the KBN Jurisprudence Examination, if the license has lapsed one year or more
7. A Federal Criminal Background Check from the FBI, resulting from the reading of the fingerprint card

Reinstatement of a License Subject to Disciplinary Action

If the license has been revoked, suspended or voluntarily surrendered, the individual may apply for reinstatement by meeting the terms of the disciplinary or agreed order. In some cases, a hearing shall be conducted to determine if issuing a license to the individual would no longer be a threat to public safety and health (201 KAR 20:225).

Reinstatement for Failure to Renew: If a nurse fails to renew a license by October 31st of the year the license expires, s/he must meet all the requirements for reinstatement of the license. A license cannot be reinstated until both the state and federal criminal background check reports have been received

Retired License

A nurse in Kentucky may choose to retire his/her license. A retired license is validated as retired. Having a retired license allows the individual to use the title registered nurse (RN) or licensed practical nurse (LPN), but does not allow the individual to practice as a nurse. Active licensure is mandatory to practice as a nurse in Kentucky. There is a onetime fee to obtain a retired license, the license does not have to be renewed, and continuing education does not have to be earned.

Sexual Assault Nurse Examiner Credential

The Sexual Assault Nurse Examiner (SANE) program is a statewide commitment to provide compassionate and comprehensive response to individuals 14 years of age and older who have been the victims of sexual assault.

The SANE is a registered nurse educated in the forensic examination of victims of sexual assault and credentialed by KBN. A SANE may conduct the physical examination, collect and preserve evidence and testify in legal proceedings. Because the SANE is knowledgeable in the nursing process, forensic nursing concepts, victim's issues, and legal responsibilities, he/she is an integral part of the multidisciplinary team.

To be eligible for credentialing as a SANE in Kentucky, one must have a current, active license as a Kentucky RN or a privilege to practice pursuant to the Nurse Licensure Compact (201 KAR 20:411), and a current SANE certification. A Kentucky credentialed SANE registered nurse must

renew the credential every year and earn 5 contact hours in sexual assault/forensic nursing with each renewal.

Online Verification of Licensees

The KBN website is considered primary source verification of licensure and is the preferred method of licensure validation. Both The Joint Commission and the Kentucky Cabinet for Health and Family Services, Office of the Inspector General consider verification through the KBN website as evidence of licensure. The KBN web validation displays not only the license expiration date but also, in real time, any disciplinary action taken on the license or privilege to practice.

KBN does not recommend verifying licensure by requiring a nurse to provide a copy of the license card. In fact, effective May 2011, KBN no longer issues license cards. Newly licensed nurses receive an email notification that includes their license number and the expiration date.

Fee Schedule

The Board is authorized by law to set fees for services including licensure and certification (201 KAR 20:240). Current fee schedules are listed on the KBN website.

Bad Transactions (Checks, drafts, electronic transfer and credit cards)

If a payment for a license, credential or other service fee is dishonored by the bank, the licensee must reimburse the Board the application or service fee plus any additional fees within thirty days of written notification from the Board. If the licensee fails to reimburse the Board for fees paid for the renewal of a license, the board may initiate action for the immediate temporary suspension of the license or credential (KRS 314.075).

Applications or Other Forms

All applications for licensure are online and licensure fees are payable by credit/debit card or checking and saving account. There is a $40 fee for a paper application, which is in addition to the application fee. Also available on the website are other online forms, detailed instructions and requirements for licensure, and certification.

Lesson 2 – Scope of Practice

Licensee Scope of Practice

The Scope of Practice for all licensees (RN, LPN, APRN) are found in Kentucky Revised Statutes (KRS) Chapter 314 and in Kentucky Administrative Regulations 201 KAR Chapter 20. In addition to these laws, the Board of Nursing issues Advisory Opinion Statements to provide guidelines on safe patient care. These are written to reflect statutes and administrative regulations, as well as standards of practice and evidence based practice research.

RN Scope of Practice

The Kentucky Nursing Laws define the scope of practice for the RN in KRS 314.011 (6). Registered nursing practice is defined as follows: "the performance of acts requiring substantial specialized knowledge, judgment, and nursing skills based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

(a) The care, counsel, and health teaching of the ill, injured, or infirmed
(b) The maintenance of health or prevention of illness in others

RN Scope of Practice (2)

Registered Nursing Practice is defined as (continued):

(c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or APRN and as further authorized or limited by the Board, and with standards of practice established, which are consistent either with the American Nurses Association Standards of Practice or with standards of practice established by nationally accepted organizations of registered nurses. Components of medication administration include, but are not limited to:
    1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications (only as defined in subsection (17)(b))
    2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy
    3. Intervening when emergency care is required as a result of drug therapy
    4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual
    5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual
    6. Instructing an individual regarding medications

RN Scope of Practice (3)

Registered Nursing Practice is defined as (continued):

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care
(e) The performance of other nursing acts which are authorized or limited by the Board, and which are consistent either with the American Nurses Association's Standards of Practice or with standards of practice established by nationally-accepted organizations of registered nurses

LPN Scope of Practice

Licensed Practical Nursing practice is defined in KRS 314.011 (10) as the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirmed under the direction of a registered nurse, APRN, physician assistant, a licensed physician or dentist
(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the Board
(c) The administration of medications or treatments as authorized by a physician, physician assistant, dentist, or APRN and as further authorized or limited by the Board, which is consistent with the National Federation of Licensed Practical Nurses or with standards of practice established by nationally-accepted organizations of licensed practical nurses
(d) Teaching, supervising, and delegating except as limited by the Board
(e) The performance of other nursing acts which are authorized or limited by the Board and which are consistent with the National Federation of Licensed Practical Nurses or with standards of practice established by nationally-accepted organizations of licensed practical nurses

APRN Scope of Practice

APRN practice is defined in KRS 314.011 (8). Advanced practice registered nursing means the performance of additional acts by registered nurses who have gained added knowledge and skills through an accredited education program that prepares the registered nurse for one of the four APRN roles.

APRNs must be certified in at least one population focus and are certified by the American Nurses Credentialing Center (or other nationally established organizations recognized by the Board to certify RNs for advanced practice registered nursing) in one of the following roles:

- Certified nurse anesthetist
- Clinical nurse specialist
- Certified nurse midwife
- Certified nurse practitioner

APRN Roles

An APRN may practice in one of these four roles as licensed by the Board and as determined by the educational program completed, population focus and the organization certifying the individual. For example, if prepared and certified as a pediatric nurse practitioner, the APRN may not engage in advanced nursing practice of the adult. The educational preparation and scope of practice of the certifying body determines legal practice parameters, not the employer of the APRN.

A list of the certifying organizations and those exams that meet the requirements for them may be found in 201 KAR 20:056 Section 3.

APRN & Collaborative Agreements

Advanced nursing practice includes but is not limited to prescribing treatments, nonscheduled and scheduled medications; medical devices; and ordering diagnostic tests. An APRN who wishes to exercise prescriptive authority of non-scheduled medications must have a written "Collaborative Agreement for the [Advanced Practice Registered Nurse's] Prescriptive Authority for Nonscheduled Legend Drugs" (CAPA-NS) with a physician that defines the scope of the prescriptive authority for nonscheduled drugs [KRS 314.042 (8)].

A second collaborative agreement, "Collaborative Agreement for the [Advanced Practice Registered Nurse's] Prescriptive Authority for Controlled Substances" (CAPA-CS) is required of the APRN who wishes to prescribe controlled substances [KRS 314.042 (9)]. The CAPA-CS must be with a physician in the same or similar specialty. In addition to the collaborative agreement (CAPA-CS), the APRN must have been registered to practice for one year and have obtained a controlled substances registration certificate from the U.S. Drug Enforcement Agency (DEA #).

All APRNs who have a CAPA-CS must establish and maintain an account with the Kentucky All Schedule Prescription Electronic Reporting System (KASPER).

APRN Licensure & Certification

An APRN in Kentucky must maintain current active RN licensure, current APRN licensure and current national certification. The APRN licensure renewal period is the same as the RN licensure period.

There is a 5-contact hour pharmacology requirement for each APRN licensure period [KRS 314.011 (7), (8), KRS 314.042 (1)–(9), KRS 314.073 (9)]. If the APRN is prescribing controlled substances, 1.5 contact hours, of the 5 hours, must be earned on the use of KASPER, pain management, or addiction disorders.

Practicing without a current APRN license, national certification, and/or an active Kentucky or multistate RN license may subject the APRN to disciplinary action by the KBN [KRS 314.011 (7), (8), KRS 314.042 (1) – (9), KRS 314.073 (9)]. If an APRN practices in the advanced practice role after the national certification expires, he/she may be subject to disciplinary action. No extension or grace period given by a national certification organization is recognized by

KBN. A monthly review of APRN licensees' certification is completed by KBN, and APRNs must submit evidence of current certification when requested to do so.

Credentialing

In addition to issuing RN, LPN and APRN licenses, the Kentucky Board of Nursing issues credentials for Dialysis Technicians and for Sexual Assault Nurse Examiners. In addition to providing the definition of the various licensees and those credentialed by the Board of Nursing, there are additional statutes and administrative regulations which define the scope of practice of dialysis technicians and nurses.

Dialysis Technician

A dialysis technician (DT) practices under the direct, on-site supervision of a RN or a physician. Information on the credentials, scope and standards of practice and requirements of the DT training programs is located in Kentucky Administrative Regulation 201 KAR 20:470. This includes acts the DT may perform in the clinical setting and acts which are prohibited.

Sexual Assault Nurse Examiner

The Sexual Assault Nurse Examiner (SANE) is a RN educated and in the forensic examination of victims of sexual assault, holding national certification and credentialed by KBN. Refer to Lesson 1, Sexual Assault Nurse Examiner Credential for more information.

Dispensing of Medication

Dispensing of medication by RNs and APRNs is defined by KRS 314.011 (17) (a) and (b). APRN dispensing is defined in KRS 314.011 (17) (a) as to receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party. KRS 314.011 (17) (b) defines dispensing by nurses as: to distribute noncontrolled legend drugs samples from local, district, and independent health departments, subject to the direction of the appropriate governing board of the individual health department.

Determination of Death by RNs

RNs employed by ambulance services, hospitals, or nursing facilities have the authority to determine if a client's death has occurred (KRS 314.181). A RN employed by an ambulance service shall have completed training in determination of death and preservation of evidence as required by the Board (201 KAR 20:440). RNs employed by hospice programs may determine and make the pronouncement of death for a hospice patient, either in the home or in an inpatient unit. When the determination of death and pronouncement occurs in a hospital or facility in a patient whose circulation and respiration is not being artificially maintained, the RN may make that declaration. The RN shall notify the patient's attending physician of the death in accordance with the hospital's or facility's policy. The hospice RN may also sign the provisional report of death prior to releasing the body to the funeral home (KRS 314.046).

It is not within the scope of the LPN to make the declaration of death.

LPN Scope of Practice in IV Therapy

It is imperative that both the RN and the LPN know the scope of practice of the LPN. RNs who assign patient care to LPNs must understand their scope in order to give appropriate assignments. LPNs must know how to practice safely within their scope of practice.

LPNs may engage in the practice of intravenous therapy, as delineated in 201 KAR 20:490 (LPN Intravenous Therapy Scope of Practice), if educationally prepared and clinically competent to do so. This administrative regulation includes definitions, education and training standards, supervision requirements, standards of practice, permitted and prohibited functions. A copy of this administrative regulation is available at the KBN website under Legal/Laws and Regulations.

An LPN performing IV therapy procedures shall be under the direction and supervision of a RN, APRN, physician assistant, physician, or dentist. A LPN should only perform those IV therapy tasks that they possess the knowledge, skill and ability to perform safely and are permitted by regulation.

IV Tasks the LPN May Perform

Section 5. Functions That May Be Performed. An LPN who has met the education and training requirements of Section 2 of 201 KAR 20:490 may perform the following IV therapy functions, except as limited by Section 6 of the administrative regulation and under supervision as required by Section 3 of the administrative regulation:

1. Calculation and adjustment of the flow rate on all IV infusions
2. Observation and reporting of subjective and objective signs of adverse reactions to any IV administration and initiate appropriate interventions
3. For all IV access devices:
    a. Administration of IV fluids and medications via central venous and peripheral access devices as permitted by this Section and not prohibited by Section 6 of this administrative regulation
    b. Performance of site care and maintenance that includes:
        i. Monitor access site and infusion equipment
        ii. Change administration set, including add-on device and tubing
        iii. Flushing
        iv. Change site dressing
    c. Discontinuance of a medication or fluid infusion
    d. Conversion of a continuous infusion to an intermittent infusion

IV Tasks the LPN May Perform (2)

4. Insertion or removal of a peripheral access device
5. Administration, monitoring, and discontinuance of blood, blood components, and plasma volume expanders
6. Administration of IV medications and fluids that are mixed and labeled by an RN, APRN, physician, dentist, or pharmacist or are commercially prepared

7. Mixing and administration via push or bolus route of any of the following classifications of medications:
    a. Analgesics
    b. Antiemetics
    c. Antagonistic agents for analgesics
    d. Diuretics
    e. Corticosteroids
    f. Saline, heparinized saline or Hep-Lock solution to maintain patency of an IV access device

IV Tasks the LPN May Perform (3)

8. Administration of glucose to patients 14 years of age or older via direct push or bolus route
9. Administration, monitoring, and discontinuance of IV medications and fluids given via a patient controlled administration system
10. Administration, monitoring, and discontinuance of parenteral nutrition and fat emulsion solutions
11. Performance of dialysis treatment, including:
    a. Administering Heparin 1:1000 units or less concentration either to prime the pump, initiate treatment, or for administration throughout the treatment, in an amount prescribed by a physician, physician's assistant, or APRN. The LPN shall not administer Heparin in concentrations greater than 1:1000
    b. Administering normal saline via the dialysis machine to correct dialysis-induced hypotension based on the facility's medical protocol. Amounts beyond that established in the facility's medical protocol shall not be administered without direction from a RN or a physician

IV Tasks the LPN May Perform (4)

12. Collection of blood specimens from a peripheral IV access device only at the time of initial insertion
13. Removal of a noncoring needle from an implanted venous port
14. Titration of intravenous analgesic medications for hospice patients
15. Administration of peripheral intravenous medications via a volumetric control device
16. Administration of intravenous medications or solutions via a ready-to-mix intravenous solution infusion system
17. Aspiration of a central venous catheter to confirm patency via positive blood return
18. Administration of medications or fluids via
    a. Peripherally inserted central catheters
    b. Implanted or tunneled central venous catheters

IV Tasks That Shall NOT Be Performed by the LPN

Section 6. Functions That Shall Not be Performed.

The LPN shall not perform the following IV therapy functions:

1. Administration of tissue plasminogen activators, immunoglobulin, antineoplastic agents, or investigational drugs
2. Accessing of a central venous access device used for hemodynamic monitoring
3. Administration of medications or fluids via arterial lines or implanted arterial ports
4. Administration of medications via push or bolus route except as permitted by Section 5(7) or (8) of this administrative regulation
5. Administration of a fibrinolytic agent to declot any IV access device
6. Administration of medications requiring titration, except as permitted by Section 5(14) of this administrative regulation
7. Insertion or removal of any IV access device, except as permitted by Section 5(4) or (13) of this administrative regulation
8. Accessing or programming an implanted IV infusion pump
9. Administration of IV medications for the purpose of procedural sedation, moderate sedation, or anesthesia

IV Tasks That Shall NOT Be Performed by the LPN (2)

10. Administration of fluids or medications via an epidural, intrathecal, intraosseous, or umbilical route, or via a ventricular reservoir
11. Administration of medications or fluids via an arteriovenous fistula or graft, except for dialysis
12. Performance of the repair of a central venous access device;
13. Mixing of any medications other than those listed in Section 5(7) of this administrative regulation
14. Insertion of noncoring needles into an implanted port
15. Performance of therapeutic phlebotomy
16. Administration of medications or fluids via a nontunneled, nonimplanted central venous catheter
17. Aspiration of an arterial line
18. Withdrawal of blood specimens via a central venous catheter
19. Initiation and removal of a peripherally inserted central, midclavicular, or midline catheter

LPN Practice

An Advisory Opinion Statement (AOS) that is important for both RNs and LPNs to know is AOS # 27: COMPONENTS OF LICENSED PRACTICAL NURSING PRACTICE. This AOS provides a guideline identifying components of clinical practice for the LPN.

LPNs practice under the direction of a RN, APRN, physician assistant, physician or dentist. LPNs are not licensed for independent practice. It is not within the legal scope of licensed practical nursing practice to direct and supervise the practice of a RN.

Components addressed in AOS #27 include: assessment, planning, implementation, evaluation, reporting and recording, collaborating, teaching and counseling.

Use the link to view an Index of Current KBN Advisory Opinion Statements.

Delegation by Nurses to Unlicensed Personnel

An integral part of competent practice is the delegation of nursing tasks by licensed nurses. KRS 314.011 (2) defines delegation as "directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations..." Kentucky Administrative Regulation 201 KAR 20:400 details the responsibilities of the licensed nurse who delegates a nursing task to an unlicensed person or to a paramedic in a hospital emergency department.

In summary, the licensed nurse who delegates to an unlicensed person must determine the nursing care needs of the client, retain responsibility for use of the nursing process, assess the competency of the unlicensed person to perform the delegated task, ascertain that no independent nursing judgment or intervention is required, evaluate and retain responsibility for competent performance, and document outcome(s).

Delegation by Nurses to Unlicensed Personnel (2)

Acts that require substantial specialized nursing knowledge or judgment should NOT be delegated to an unlicensed person. No other person "works on your license"; a nurse is responsible for his/her decisions to delegate tasks and should assure that the task is provided in a safe and competent manner. The responsibility and the accountability of nursing care remain with the nurse. Therefore, the nurse should always assure that the individual performing the act has the necessary educational preparation and competence in order to perform the task safely.

Delegation by Nurses to Unlicensed Personnel (3)

The nurse is responsible for providing supervision of the delegated task performed by an unlicensed person. When determining the degree of supervision needed, the nurse must evaluate the stability and acuity of the patient; the training and competency of the delegatee; the complexity of the nursing task being delegated; and the proximity and availability of the delegating nurse to the delegatee when the nursing task is performed.

AOS #15: ROLES OF NURSES IN THE SUPERVISION AND DELEGATION OF NURSING ACTS TO UNLICENSED PERSONNEL further explains the Board's position on related delegation issues.

Use the link to view an Index of Current KBN Advisory Opinion Statements.

Delegation by Nurses to Unlicensed Personnel (4)

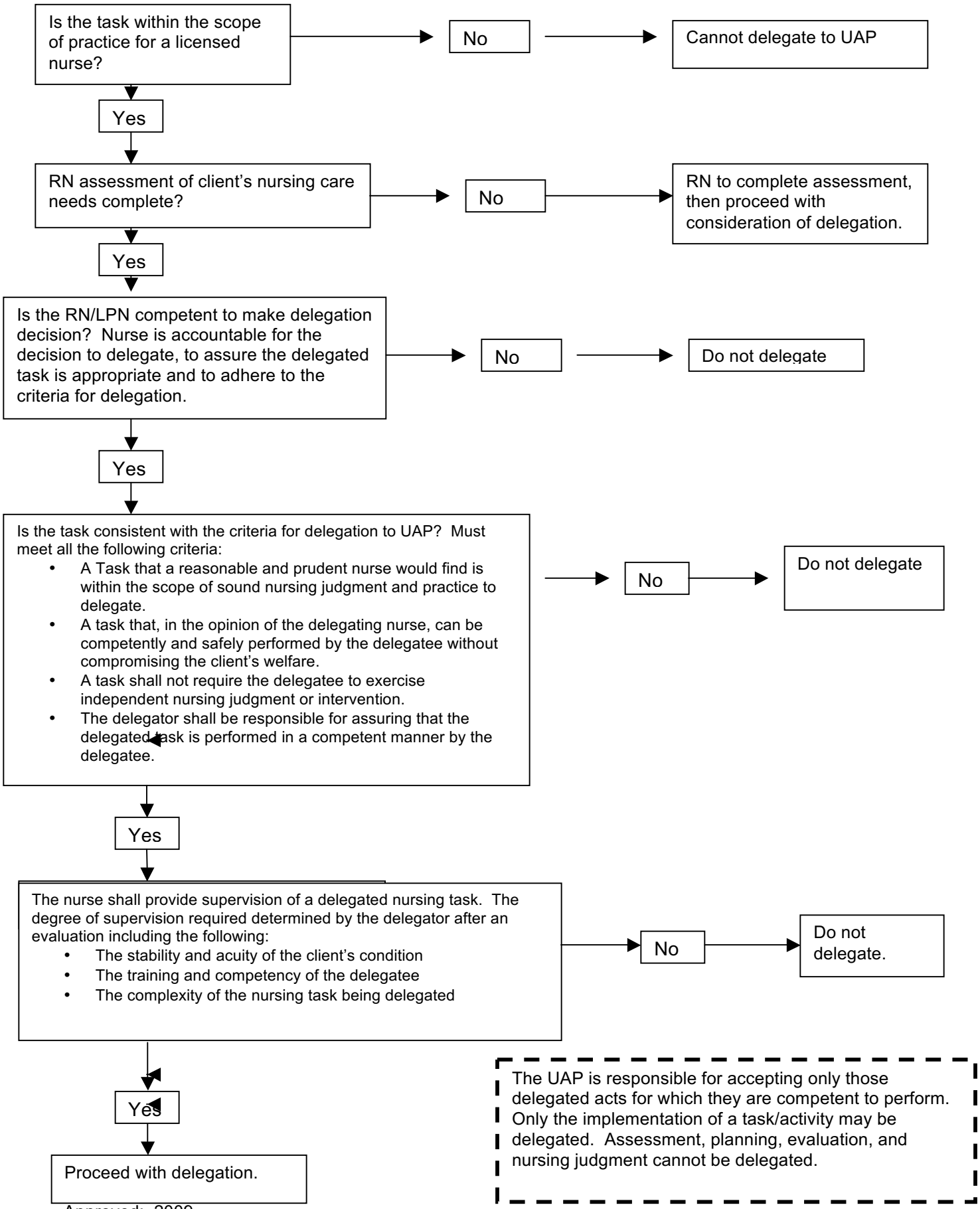
The Board has also developed a decision tree (see diagram) to assist nurses in determining if an act is appropriate to delegate to an unlicensed person. The unlicensed person is responsible for accepting only those delegated acts for which they are competent to perform.

Only the implementation of a task/activity may be delegated. Assessment, planning, evaluation, and nursing judgment cannot be delegated.

Decision Tree for Delegation to an Unlicensed Assistive Personnel

Access the Decision Tree for Delegation to Unlicensed Assistive Personnel on the KBN website.

KBN DECISION TREE FOR DELEGATION TO UNLICENSED ASSISTIVE PERSONNEL (UAP)



Approved: 2009
Revised: 2/2010

Advisory Opinion Statements and Declaratory Rulings

The Board has the statutory authority (KRS 314.131 (2)) to issue Advisory Opinion Statements and make declaratory rulings dealing with nursing practice. While Advisory Opinion Statements do not carry the force and effect of law, they are guidelines for safe and effective nursing care. When the Board identifies pertinent issues or receives a number of inquiries about a particular area of practice, an advisory opinion may be developed.

There are over thirty (30) such opinions currently in effect. A full listing of KBN Advisory Opinion Statements is available on the KBN website. If a nurse has a practice question, the individual may email or call the Board to request guidance.

The Board may issue, on petition of an interested party, a declaratory ruling relating the applicability of the law to any person, property, or state of facts of a statute, administrative regulation, decision, order, or other written statement of law or policy within the jurisdiction of the Board. Declaratory rulings have the force and effect of law (KRS 314.105).

Scope of Practice Determination Guidelines – Decision Tree

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. The KBN has published "Scope of Practice Determination Guidelines" that contain a decision tree chart (see diagram) providing guidance to nurses in determining whether a selected act is within an individual nurse's scope of practice now or in the future.

Decision Tree/Guidelines for Determining Scope of Practice for RNs & LPNs

Access the Decision-Making Model for Determining Scope of Practice for RNs/LPNs and supportive information on the KBN website.

Decision Tree/Guidelines for Determining Scope of Practice for APRNs

Access The Scope of Practice Decision-Making Model for APRNs and supportive information on the KBN website.

DECISION-MAKING MODEL FOR DETERMINING SCOPE OF PRACTICE FOR RNs/LPNs

1. Describe the act being performed.

⇩

2. Is the act expressly permitted/prohibited by the *Kentucky Nursing Laws* for license which you hold or by any other applicable Kentucky Law?

Permitted ⇩ **Yes** ⇩ **No** ⇨ **Stop**

⇩ **Go to 5**

Unsure ⇩

Prohibited ⇨ **Stop**

3. Is the act permitted/prohibited by your employing facility/organization policy?

Permitted ⇩ **Yes** ⇩ **No** ⇨ **Stop**

⇩ **Go to 5**

Unsure ⇩

Prohibited ⇨ **Stop**

4. Does the act require application of substantial specialized nursing knowledge, skill, and independent judgment?

Yes ⇩

WITHIN SCOPE OF RN OR APRN[2], OR UNSURE APRN PRACTICE ONLY (SEE KBN APRN SCOPE OF PRACTICE GUIDELINES/DECISION TREE)

⇩

No ⇩

MAY BE WITHIN SCOPE OF RN OR LPN PRACTICE

⇩

5. Is the act consistent with the scope of practice based upon at least one of the following factors?
   a. National nursing organizations' scope and standards of practice.
   b. Nursing literature and research.

Yes ⇩

No ⇨ NOT WITHIN YOUR SCOPE OF PRACTICE

6. Do you personally possess the depth and breadth of knowledge to perform the act safely and effectively as demonstrated by knowledge acquired in a prelicensure program, post licensure program, or continuing education program? (Can you provide evidence of education?)

Yes ⇩

No ⇨ NOT WITHIN YOUR SCOPE OF PRACTICE

7. Do you personally possess current clinical competence to perform the act safely? (Can you provide evidence of competency validation?)

Yes ⇩

No ⇨ NOT WITHIN YOUR CURRENT SCOPE OF PRACTICE UNLESS COMPETENCE IS ACHIEVED

8. Is the performance of the act within the accepted "standard of care" which would be provided in similar circumstances by reasonable and prudent nurses who have similar training and experience?

Yes ⇩

Unsure ⇩ **Contact KBN**

No ⇨ NOT WITHIN YOUR SCOPE OF PRACTICE: PERFORMANCE OF ACT MAY PLACE BOTH NURSE AND PATIENT AT RISK

9. Are you prepared to accept the consequences of your action?

Yes ⇩

PERFORM THE ACT – BASED UPON VALID ORDER WHEN NECESSARY, AND IN ACCORDANCE WITH APPROPRIATELY ESTABLISHED INSTITUTIONAL POLICY AND PROCEDURE

⇩

ASSUME ACCOUNTABILITY FOR PROVISION OF SAFE CARE

No ⇨ THE ACCOUNTABILITY THAT IS REQUIRED BY KRS 314.021(2) IS NOT ASSUMED

⇩

NOT WITHIN YOUR SCOPE OF PRACTICE

⇩

NOTIFY APPROPRIATE PERSON(S)

GUIDELINES SUMMARY: DETERMINING SCOPE OF PRACTICE FOR RNs/LPNs

1. Designated act.

⇩

2. *Kentucky Nursing Laws*/other applicable law

Permitted ⇩ ⇩ **Yes** **No** ⇨ **Stop**

Unsure ⇩

Prohibited ⇩ **Stop**

3. Facility/Organization policy and procedure

Permitted ⇩ ⇩ **Yes** **No** ⇨ **Stop**

Unsure ⇩

Prohibited ⇩ **Stop**

4. Specialized education required?

Yes ⇩ **RN or APRN** ⇩

No ⇩ **RN or LPN** ⇩

5. Scope of practice factors present?

Yes ⇩ **No** ⇨ **Stop**

6. Possess knowledge?

Yes ⇩ **No** ⇨ **Stop**

7. Competent?

Yes ⇩ **No** ⇨ **Stop**

8. Reasonable and prudent?

Yes ⇩ **Unsure** ⇨ **Contact KBN** **No** ⇨ **Stop**

9. Accountability assumed?

Yes ⇩ **No** ⇨ **Stop**

Perform

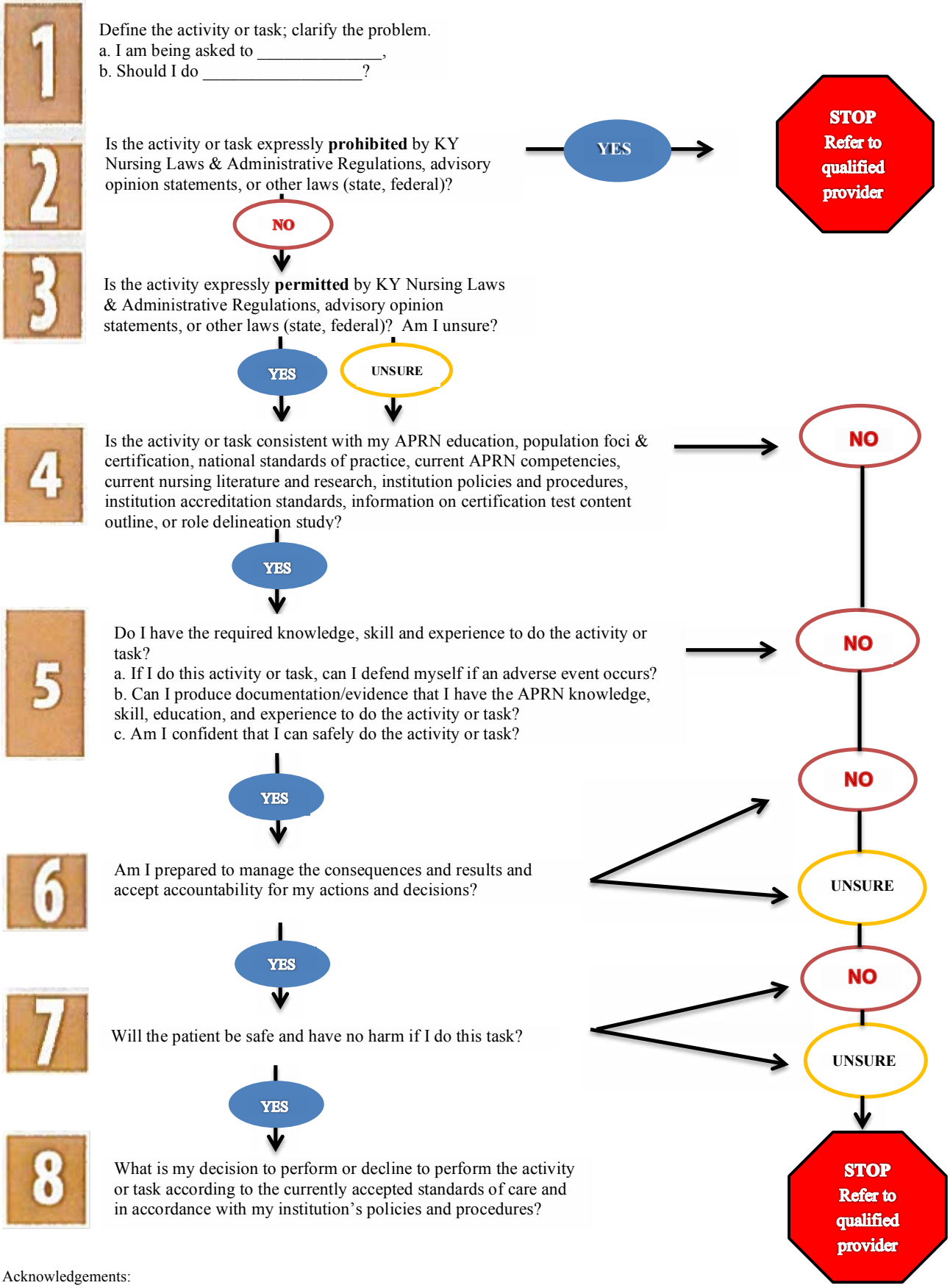
1 An advisory opinion is not a regulation of the Board and does not have the force and effect of law. It is issued as a guideline to licensees who wish to engage in safe nursing practice and who wish to minimize the possibility of being subjected to discipline and/or malpractice litigation. (Copies of advisory opinion statements and the *Kentucky Nursing Laws* are available from the Kentucky Board of Nursing website http://kbn.ky.gov/Pages/default.aspx)

2 The legal scope of advanced practice registered nursing is defined by a)advanced clinical knowledge achieved through an accredited educational program; b) certification as an advanced practiced registered nurse in a specific advanced practice role and population foci ; and c) the national nursing organization's published scope and standards of practice.

Approved: 2/88 Revised: 8/90; 2/91; 10/92; 6/00; 9/01; 4/05; 6/15 Reviewed: 05/07; 5/09 Editorial Revision: 1/2011

Kentucky Board of Nursing (KBN) Scope of Practice Decision-Making Model for APRNs

Use the process flow below to think through your scope of practice decision. Please see the Kentucky Board of Nursing (KBN) Guidelines for Determination of APRN Scope of Practice for additional consideration.



Acknowledgements:
Adapted and reprinted with permission from the American Nurses Association 2015.
Based on KBN Decision Tree/Guidelines for Determining Scope of Practice, Approved 2/88.
3/16/15

Assignments

Another area frequently questioned, particularly by recent graduates, is related to assignments; both receiving and giving of assignments. The KBN developed an advisory opinion on assignments to assist nurses in decision making on safe patient care.

AOS #19: RESPONSIBILITY AND ACCOUNTABILITY OF NURSES FOR PATIENT CARE ASSIGNMENTS AND NURSING CARE DELIVERY details the factors that must be considered when accepting or giving assignments. Included in these are the kinds of acts being performed; the condition of the patient for whom the acts are being performed; the situation in which the acts are performed; the preparation and experience of the nurse performing the acts; and the ability of the nurse to recognize adverse reactions and the capability to take appropriate actions in order to protect the patient. A nurse temporarily assigned to an unfamiliar, specialized, or "high-tech" patient care area, would be expected to utilize core knowledge and competence to provide patient care. The duties expected of the nurse should be outlined, and the nurse should have the ability to perform those duties. Further, the nurse in such a situation should be under the on-site supervision of a RN who is prepared by virtue of education and experience to practice competently in the specific area.

Use the link to view an Index of Current KBN Advisory Opinion Statements.

Assignments (2)

A nurse who doubts his/her competence to perform a requested act has an affirmative obligation to:

1. Collaborate with the appropriate supervisory nursing personnel to assist in the performance of the act.
2. Request the educational preparation and supervised clinical practice necessary to perform the act.

If the appropriate training or supervision is not provided, then the nurse is obligated to refuse to perform the act and to inform the supervisory nursing personnel, and/or the prescribing physician/provider, as applicable.

If a nurse accepts an assignment believed to be unsafe, or for which the nurse is not educationally prepared, the nurse assumes the potential liability that may occur as the result of the assignment. Others may equally or concurrently be held responsible, accountable, and liable for the nurse's actions.

Abandonment

While the term “abandonment” does not appear in Kentucky Nursing Statutes, KRS Chapter 314, a nurse whose behaviors are inconsistent with the safe practice of nursing may be charged with being in violation of KRS 314.021 (2), which holds nurses individually responsible and accountable for rendering safe, effective nursing care to patients and for judgments exercised and actions taken in the course of providing care and KRS 314.091 (1) (d) “…negligently or willfully acting in a manner inconsistent with the practice of nursing….”

In general a nurse may leave a nursing assignment only after:

1. Communicating the need to do so with the nurse's supervisor.
2. Exhausting all reasonable and prudent efforts to place the care of the patients in another nurse's care.

While it is difficult to specifically state when abandonment occurs, it is clear that abandonment does not occur when a nurse who cannot practice with reasonable skill and safety leaves an assignment after fulfilling the two obligations stated above.

Confidentiality

Each nurse is held individually responsible and accountable for rendering safe, effective nursing care to patients and for judgments exercised and actions taken in the course of providing care. KRS 314.021 (2)

A nurse has an obligation to protect confidential patient information and releases information only to those with a need to know basis. The patient should provide permission for these disclosures.

KRS 314.031 added the mandatory reporting of a nurse who is suspected of violating the confidentiality of information or knowledge concerning any patient, except as authorized or required by law.

Lesson 3 – Consumer Protection

Consumer Protection Branch of the KBN

As stated throughout this document, the Kentucky Board of Nursing (KBN) protects public health and welfare by the development and enforcement of state laws governing the safe practice of nursing.

The Consumer Protection Branch of the KBN has the following functions and responsibilities associated with the mission of public protection:

- Investigates alleged violations of the Kentucky Nursing Laws
- Takes disciplinary action against licensees/applicants who fail to meet regulatory standards
- Provides an alternative to disciplinary action for chemically dependent nurses through the Kentucky Alternative Recovery Effort (KARE) for Nurses Program
- Monitors nurses on limitation/probation

KRS 314.091 is the Board's general discipline statute which provides notice of the types of misconduct that may result in disciplinary action. When potential violations are identified that threaten client well-being, the licensee must be reported to the Board (KRS 314.031 (4)).

Reasons for KBN Disciplinary Action

KRS 314.091 (1) gives the Board the "power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the Board or applied for…, or to otherwise discipline a licensee, credential holder, privilege holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license, credential, or privilege to practice nursing
(b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge, who presided over the conviction, shall be conclusive evidence
(c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064 (1) (a), or 531.310, or has been found by the Board to have had sexual contact as defined in KRS 510.010 (7) with a patient while the patient was under the care of the nurse
(d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing
(e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including, but not limited to, being unable to practice nursing with reasonable skill or safety
(f) Abuses use of controlled substances, prescription medications, illegal substances or alcohol

Reasons for KBN Disciplinary Action (2)

(g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others
(h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records
(i) Has a license or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or privilege to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth; including action by another jurisdiction for failure to repay a student loan
(j) Has violated any of the provisions of this chapter
(k) Has violated any lawful order or directive previously entered by the Board
(l) Has violated any administrative regulation promulgated by the Board
(m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property
(n) Has violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law

Licensure Is Required for Practice

A nursing license is mandatory in Kentucky if an individual wishes to use the title advanced practice registered nurse (APRN), registered nurse (RN) or licensed practical nurse (LPN). A license is required even though an individual is not employed as a nurse if one holds herself/himself out to be an APRN, RN or LPN. It is unlawful for any person to call or hold herself/himself out as or use the title of nurse or to practice or offer to practice as a nurse unless actively licensed by the Board (KRS 314.031 (1)).

Mandatory Reporting

Kentucky is a mandatory reporting state. The mandatory reporting requirement found in KRS 314.031 (4) states in part that it shall be unlawful for any nurse, employer of nurses, or any person having knowledge of facts to refrain from reporting to the Board a nurse who may have violated any provisions of Chapter 314. All complaints related to nurses/applicants are handled in the Investigation and Discipline Section of the Consumer Protection Branch of the Board. Complaints are submitted by health care facilities, co-workers, patients, family members, self-reports, law enforcement, other boards of nursing, anonymously, or other administrative agencies. If there is evidence of a possible violation of the Kentucky Nursing Laws, an investigation is initiated.

Mandatory Reporting (2)

There are penalties for failing to report violations. Nurses who fail to report may be subject to disciplinary action.

Specific examples of misconduct found in KRS 314.031 (4) that must be reported include a nurse who:

1. Has been convicted of any felony or misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm, endangerment of others, or dishonesty under the laws of any state or of the United States
2. Is suspected of fraud or deceit in procuring or attempting to procure a license or credential, or privilege to practice nursing
3. Is suspected of negligently or willfully acting in a manner inconsistent with the practice of nursing
4. Is suspected of being unfit or incompetent to practice nursing by reason of negligence or other causes including, but not limited to, being unable to practice nursing with reasonable skill or safety
5. Is suspected of violating any provision of KRS Chapter 314
6. Has a license, privilege, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license, privilege, or credential to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth
7.

Mandatory Reporting (3)

Specific examples of misconduct found that must be reported include a nurse who (continued):

7. Is practicing nursing without a current active license, privilege or valid temporary work permit issued by the Board
8. Is suspected of falsifying or making incorrect entries or failing to make essential entries in medical records
9. Is suspected of misusing or misappropriating any drugs placed in the custody of the nurse for administration, or for use of others
10. Is suspected of falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records
11. Is suspected of abusing controlled substances, prescription medications, illegal substances, or alcohol
12. Is suspected of violating the confidentiality of information or knowledge concerning any patient, except as authorized or required by law
13. Has failed to cooperate with the Board's investigation

Mandatory Reporting (4)

KRS 314.109 requires any person under the jurisdiction of the Board to notify the Board in writing of any misdemeanor or felony criminal conviction, except for traffic-related misdemeanors other than operating a motor vehicle under the influence of drugs or alcohol, in this or any other jurisdiction, within 90 days of the entry of an order or judgment. The person shall submit a certified copy of the order and a letter of explanation related to the circumstances surrounding the conviction. KRS 314.108 requires any person under the jurisdiction of the Board to notify the Board in writing if any professional or business license that is issued to the person by any agency of the Commonwealth or any other jurisdiction is subject to disciplinary action.

The person shall submit a certified copy of the order and a letter of explanation related to the circumstances surrounding the action.

Mandatory Reporting (5)

KBN can also initiate an investigation by entering an administrative complaint for the following:

1. Failure to obtain the required continuing competency requirements
2. Practicing without a license
3. Failure to repay a student loan to the Kentucky Higher Education Assistance Authority (KHEAA)
4. Falsification of an application for licensure
5. Submission of a bad debit transaction or check to KBN for licensure
6. Failure to report convictions
7. Failure to satisfy child support obligations

KRS 314.091 (3) gives the Board the authority to issue subpoenas to compel the production of documents in the course of an investigation. The subpoena is enforceable by the Circuit Court and any failure to comply with a Board issued subpoena could result in an action for contempt being filed in the Circuit Court.

When a Complaint Is Entered Against a Nurse

If there is evidence of a possible violation of the Kentucky Nursing Laws, the nurse/applicant is placed under investigation and she/he is notified by mail. The nurse/applicant is sent a Notice of Complaint letter, a copy of the complaint, and a Response to Complaint form to her/his address of record with the Board. The Response to Complaint form allows the nurse/applicant to provide their response to the allegations, and it must be verified by the nurse/applicant and notarized. It is a violation of KRS 314.095 to submit a materially false statement to the Board. If the nurse/applicant retains an attorney, the attorney cannot verify the Response to Complaint unless the attorney has direct, firsthand knowledge of the facts related to the complaint. The Response to Complaint form must be submitted to the Board within thirty (30) days of receipt of the Notice of Complaint letter. After the Board receives the nurse's response, the nurse is notified that an investigator will be assigned to the case.

When a Complaint Is Entered Against a Nurse (2)

KRS 314.095 states that any nurse/applicant who is the subject of an investigation by or on behalf of the Board shall cooperate fully with the investigation, including responding to a complaint or lawful request for information in a materially factual and timely manner.

The Kentucky Nursing Law requires all nurses to maintain a current mailing address with the Board. According to KRS 314.107, any person licensed by the Board shall maintain a current mailing address with the Board and shall immediately notify the Board in writing or change their address online at kbn.ky.gov.

As a condition of holding a license from the Board, she/he is deemed to have consented to service of notice or orders of the Board at the mailing address on file with the Board. This constitutes valid service of the notice or order.

Reasonable Cause & Evaluations

If the Board has reasonable cause to believe that any licensee or applicant of any type is unable to practice with reasonable skill and safety or has abused alcohol or drugs, KRS 314.085 confers the authority for the Board to require the nurse or applicant to submit to a mental health, chemical dependency, or physical evaluation by a licensed or certified practitioner designated by the Board. Once ordered, the evaluation must be completed and returned to KBN within thirty (30) days by the evaluator. Failure to comply with this order may result in an immediate temporary suspension pursuant to KRS 314.089 or denial of the application until the person submits to the required evaluation. The evaluation is performed at the licensee's/applicant's expense and may be admissible as testimony should the case proceed to an administrative hearing.

Investigations & Licensure

If the nurse's license is current, the nurse is allowed to maintain employment in Kentucky while the investigation is in process. An employer verifying the license is told the current status of the license and that an investigation is pending. No other information about the investigation is shared at this time. The employer may submit a written request to KBN to be notified of the final outcome.

An Immediate Temporary Suspension (ITS) of a nurse's license can be issued for the following reasons:

- If an immediate danger or threat to the public is identified (KRS 314.089 and KRS 13B.125)
- Failure to obtain a Board ordered evaluation: mental health, chemical dependency, or physical evaluation (KRS 314.085)
- Failure to submit sufficient funds to the Board and failure to reimburse the Board for the amount of the check, draft, order, or electronic funds transfer and any applicable fee within thirty (30) days of written notice from the Board (KRS 314.075)
- Defaulting on a student loan with the KHEAA, and failure to pay court ordered child support (KRS 164.772)

Immediate Temporary Suspensions are reported on the KBN website and to the National Council of State Boards of Nursing (NCSBN). NCSBN supports KBN, as well as other participating boards of nursing, by collecting and disseminating disciplinary data at a centralized location for other boards of nursing.

The Investigative Process

The investigative meeting is a fact gathering meeting between the nurse and investigative staff held at the Board office. This gives the nurse an opportunity to review the information regarding

the allegations. KBN staff will explain the disciplinary process and possible Board outcomes. The nurse has the right to be represented by an attorney.

After a thorough investigation, the case may be presented to KBN's Credentials Review Panel for direction. The panel, composed of four Board members, meets monthly to review information and direct Board staff on case resolutions.

If the investigation reveals probable cause or a violation of Kentucky Nursing Law has occurred, a proposed settlement is offered to the nurse in the form of an Agreed Order or Consent Decree. If the nurse accepts the proposed settlement, the document is forwarded to KBN's Executive Director for consideration and possible approval on behalf of the full Board.

The Administrative Hearing Process

If the nurse chooses not to respond to the allegations or accept the proposed settlement, KBN's prosecuting attorney prepares the Notice of Charges and Notice of Intent to Request a Hearing (NOC/NIRH). This document formally charges the nurse with specific violations of the Kentucky Nursing Laws and advises the nurse of the factual basis of the charges. The nurse must submit a written answer to the Board no later than twenty (20) days in receipt of the NOC/NIRH.

If the nurse fails to file an answer, an order for default may be issued. If the nurse submits an answer, a pre-hearing conference is scheduled. Failure to comply with any stage of the administrative hearing process may result in the issuance of a default order. When a default order is issued, the nurse is found guilty of the charges and forfeits the right to a hearing.

The Administrative Hearing Process (2)

A hearing officer presides over the hearing. The hearing panel consists of two Board members. All hearings are open to the public. Evidence is presented by KBN's prosecuting attorney and the nurse and her/his attorney, if applicable. After deliberation in closed session, the hearing officer on behalf of the panel, submits a recommended order to the full Board. Either party may submit written objections to the Board for its consideration.

Resolution of Complaints

Dismissal

The complaint is dismissed for lack of evidence.

Letter of Concern

A letter is mailed to the nurse expressing the Board's concern regarding her/his actions. This is not disciplinary action, but it is maintained in the nurse's file in the Board office. If another complaint is received, this information can be utilized to establish a pattern of misconduct.

Consent Decree

A Consent Decree agreement between the nurse and KBN issued as a result of a non-willful violation. A civil penalty is imposed. This is not formal disciplinary action. Some examples are:

working on a lapsed license; failure to meet continuing competency requirements; or falsification of an application.

Agreed Order

An Agreed Order is an agreement between the nurse and KBN validating that a violation of the Kentucky Nursing Laws occurred in whole or in part and specifying the terms/conditions to be imposed. This is formal disciplinary action.

Hearing & Decision

A Hearing and Decision is a formal procedure in which the case is presented to the KBN hearing panel for determination. A hearing officer fee and court stenographer fee may be assessed. The nurse shall bear the costs of the hearing if found guilty of a least one of the charges.

Possible Disciplinary Actions Taken against a Nurse's License

Reprimand

A reprimand does not affect the nurse's ability to practice. It may impose a civil penalty, additional continuing education, and/or possible drug screening.

Limitation/Probation

The nurse continues to practice nursing subject to certain conditions as determined by KBN. Restrictions may include: the area in which the nurse is allowed to practice; practicing with supervision; and/or having limited or no access to narcotics or other medications. Probation may include: meetings with KBN staff; random drug/alcohol screens; substance abuse treatment; and employer reports.

Voluntary Surrender or Suspension

The nurse agrees to surrender the license for a period of time or the nurse loses the right to practice nursing for a specific amount of time. The Board's order will specify conditions that must be met prior to reinstatement of the license which may include: a current chemical dependency, mental health, and/or physical evaluation; counseling reports; random drug/alcohol screens; and letters of recommendation. A hearing may be required to consider reinstatement of a suspended license.

Possible Disciplinary Actions Taken against a Nurse's License (2)

Possible disciplinary actions taken against a nurse's license (continued):

Reinstatement Denied

Reinstatement of a lapsed/suspended license can be denied by KBN until specific conditions are met.

Licensure Denied

The applicant is denied licensure in the state of Kentucky.

Revocation

The nurse loses the ability to practice nursing in the state of Kentucky. A nurse may reapply for a license after the period of time specified by the Board's Order. The nurse is required to retake and successfully pass the National Council Licensure Examination.

A civil penalty shall be imposed on all the above actions. The Board can issue a civil penalty up to $10,000.

All final KBN disciplinary actions are published in the Board's quarterly newsletter, the KBN Connection; subject to the Kentucky Open Records Act; and reported to Nursys® and any other state or federal agency as required by law.

Expungement of Records

An action against a nurse's license may be eligible to be expunged. Pursuant to KRS 314.131 (9) and 201 KAR 20:410, the Board may expunge the records of discipline. Upon a written request from the nurse, an expungement may be considered if specific criteria are met. The expungement means that the nurse's record would be sealed and the proceedings to which they refer shall be deemed never to have occurred.

Reporting Requirements

The Kentucky Board of Nursing, as a state licensing authority, is required by federal law to report all adverse licensure actions to the National Practitioner Data Bank (NPDB). State licensing authorities have the option to use an agent to meet their reporting requirements, and the Board's agent is Nursys®, a national database for verification of nurse licensure, discipline and practice privileges in participating jurisdictions, the Nursys® database is comprised of data obtained directly from the licensure systems of the boards of nursing through frequent, secured updates.

The types of actions that must be reported include any adverse action, including:

- Reprimand
- Limitation/probation
- Suspension or revocation of license
- Dismissal or closure of formal proceedings by reason that the practitioner has surrendered the license or left the jurisdiction

Reporting Requirements (2)

The Board is also required to report to the United States Department of Health & Human Services, Office of Inspector General (OIG) actions that result in a license revocation, suspension or voluntary surrender exceeding one year. The purpose of these mandatory reporting requirements is to foster quality in health care, and to assist the health care

community in making sound employment, credentialing and licensing decisions. A state licensing authority's failure to report can expose the public to practitioners who are unfit to provide patient care.

Lesson 4 - KARE

KARE for Nurses Program

It is estimated that between 10-20 % of the general population of the United States suffers from substance use disorder (SUD), which refers to conditions arising from the abuse of and addiction to alcohol and other psychoactive drugs. Within the nursing population, it is estimated that 14%-20% of nurses are dependent upon alcohol or other drugs. Nurses who practice in specialty areas, such as an emergency department, critical care and anesthesia nursing, are at higher risk for development of SUD.

Indicators of Substance Use Disorder

While no single indicator or group of indicators may be conclusive evidence of a SUD, these are typical behaviors of which nurses or employers of nurses should be aware:

- Increase in absenteeism, particularly associated with preceding days off from work
- Tardiness; Frequent breaks or absences from the unit
- Volunteering to work overtime or float between units
- Volunteering to give medications or medicating another nurse's patient
- Administering the maximum PRN dosage of a medication; as well as administering the maximum PRN more frequently than previous shifts have documented
- Patient complaints of inadequate pain control
- Eligible or absent charting, particularly medication administration
- Deterioration in job performance
- Emotional instability and mood changes; angry, tearful; paranoia
- Deterioration in personal appearance
- Sleepy, drowsy, pinpoint pupils, tremors; diaphoretic

KARE for Nurses Program

In 1996, KRS 314.171 authorized KBN to create and administer an alternative to discipline program for nurses who acknowledge a chemical dependency to alcohol or other drugs. In 2001, the Kentucky Board of Nursing implemented the Kentucky Alternative Recovery Effort (KARE) for Nurses Program. This program is an alternative to discipline monitoring program for nurses who acknowledge alcohol and/or drug abuse or dependency.

The KBN philosophy of the KARE for Nurses Program is that a SUD is treatable and that the recovery and return of a nurse to safe and competent nursing practice are in the best interest of the public and the profession. In the interest of public protection, the Kentucky Nursing Laws were amended on July 15, 2010, to permit the Board to verify to the public a licensee's participation in the KARE for Nurses Program. Therefore, any nurse admitted to the Program on or after July 15, 2010, would have his/her participation in the KARE for Nurses Program verified via the Board's online licensure validation system.

Eligibility Requirements

In order to be eligible for the KARE for Nurses Program, the nurse must be licensed or an applicant for licensure in Kentucky. The nurse must submit a written request for admission to the KARE for Nurses Program citing the circumstances that are compelling him/her to seek admission and must obtain a chemical dependency evaluation by a Board-approved evaluator. In addition, he/she agree to being monitored for five years.

Eligibility Requirements (2)

All KARE for Nurses Program participants must meet requirements for participation including, but not limited to

- Comply with recommendations for treatment
- Complete continuing care
- Attend 12 step meetings such as Alcoholics Anonymous or Narcotics Anonymous

Random drug testing is an important and necessary component of the KARE for Nurses Program. Once the nurse has provided evidence of completion of treatment including a statement from the treatment provider that the nurse is stable in their early recovery, the KARE for Nurses Program Agreement can be modified permitting the nurse to return to nursing practice. However, nursing practice limitations will apply, such as a limit on practice settings, hours worked, supervision of practice by another licensed nurse or physician and not having access to or being responsible for any controlled substances, if applicable.

Program Completion

When a nurse has met all requirements for completion of the KARE for Nurses Program, following at least five years of monitoring, the nurse may complete the program and not incur disciplinary action upon their nursing license. Any validation of the nurse's participation in the Program ceases upon their completion of the Program.

Non-Compliance with Program Requirements

The consequences for failure to remain compliant or resolve issues of noncompliance can result in the KARE for Nurses Program Agreement being modified to extend the monitoring period beyond five years or may even result in termination from participation in the Program. Termination from the Program may result in the immediate suspension (or denial of reinstatement, if the nursing license is lapsed) of the nursing license for a period of at least two years.