



KENTUCKY BOARD OF NURSING
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ADVISORY OPINION STATEMENT

ROLE OF NURSES IN MAINTAINING CONFIDENTIALITY OF PATIENT INFORMATION

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 safe and effective nursing care is provided by nurses 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: ROLE OF NURSES IN
MAINTAINING CONFIDENTIALITY OF
PATIENT INFORMATION

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Accountability and Responsibility of Nurses

In accordance with KRS 314.021(2), nurses are responsible and accountable for making decisions that are based upon the individuals' educational preparation and experience in nursing, and requires licensees to practice nursing with reasonable skill and safety. Nursing practice should be consistent with the *Kentucky Nursing Laws*, established standards of practice, and be evidence based.

Rationale for Advisory Opinion

The Kentucky Board of Nursing has received multiple inquires on the role of nurses in the maintenance (use and disclosure) of confidential patient information, and nurse behaviors that would constitute a breach of confidentiality subjecting a nurse to potential disciplinary action by the Board.

Advisory Opinion

The term “confidential patient information” as used in this statement refers to individually identifiable health and personal information, and recognizes a patient’s expectation of and right to privacy in the maintenance of this information. Such information would include, but is not limited to: information related to the past, present or future physical or mental health of an individual and treatment; and any information that identifies the individual or in which there is a reasonable basis to believe that the information can be used to identify the individual.

Code of Ethics for Nurses

The *American Nurses Association’s Code of Ethics for Nurses*, Provision 3.1, recognizes that nurses have a duty to maintain confidentiality of patient information. “...The nurse has a duty to maintain confidentiality of all patient information, both personal and clinical in the work setting and off duty in all venues including social media or any other means of communication. Because of rapidly evolving communication technology and the porous nature of social media, nurses must maintain vigilance regarding postings, images, recordings, or commentary that intentionally or unintentionally breaches their obligation to maintain and protect patients’ rights to privacy and confidentiality...Nurses are responsible for providing accurate, relevant data to members of the healthcare team and others who have a need to know. The duty to maintain confidentiality is not absolute and may be limited, as necessary, to protect the patient or other parties, or by law or regulation such as mandated reporting for safety or public health reasons.” (ANA, 2015⁵).

Kentucky Nursing Law

Kentucky Revised Statutes (KRS 314.011) requires that a nurse’s practice be consistent with nationally published nursing standards of practice, and (KRS 314.021) states that acts and decisions be performed with reasonable skill and safety and 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.

As a guide to nurses and employers, the Board advises that a nurse:

1. Is obligated to protect confidential patient information unless required by law to disclose the information,
2. Seeks and releases confidential patient information only when there is a clear and substantial “need to know” basis for the information. A “need to know” basis is one that requires individuals to have information in order to render care or service to a patient, and
3. Discloses confidential patient information to the patient’s family members and others only as permitted by the patient.

Social Media and Confidentiality

Social media, if used, should be used in a way that protects patients’ privacy and confidentiality and maintains the standards of professional nursing practice. Advisory Opinion Statement (AOS) #40 *Social Media and Nurses* outlines the Board’s expectations of nurses using social media to protect patient privacy and confidentiality.

Breaches of Confidentiality

A nurse whose behavior is inconsistent with the guidelines stated above may be charged with being in violation of KRS 314.091(1)(d) “...negligently or willfully acting in a manner inconsistent with the practice of nursing...” or KRS 314.091(1)(n) “...violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law”. For example, a nurse who violates state or federal law, such as HIPAA (Health Insurance Portability and Accountability Act), and/or improperly acquires, uses or discloses confidential patient information is subject to potential disciplinary action by the Board.

As with all complaints received by the Board regarding potential violations of the *Kentucky Nursing Laws*, each complaint is considered on a case-by-case basis. The specific facts of each situation are evaluated on an individual basis.

¹ American Nurses Association. (2015) Code of Ethics for Nurses with Interpretive Statements. Retrieved from <http://www.nursingworld.org/MainMenuCategories/EthicsStandards/CodeofEthicsforNurses/Code-of-Ethics-For-Nurses.html>