Legal Regulation of Nursing Practice in Ohio

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Regulatory Boards:
□ Governmental
□ Mandatory fees to practice
□ Protect the public

Nursing Associations:
□ Non-governmental
□ Voluntary membership dues
□ Protect the public
□ Protect and advance profession

Nursing Law and Rules in Ohio
□ “Nurse Practice Act”
□ ORC 4723
□ Rules
□ OAC 4723

Board Mission Statement
□ The mission of the Ohio Board of Nursing is to actively promote and protect the health of the citizens of Ohio through the safe and effective practice of nursing as defined by law.

Regulatory Boards:
□ Enforce law and rules
□ Impose penalties through disciplinary process
□ Fines
□ Action on license/certificate

Nursing Associations:
□ Develop professional standards of practice
□ Develop codes of ethics
□ Provide service to members
Composition of the Ohio Board of Nursing

- 4 licensed practical nurses
- 1 Consumer
- All appointments of Board members are made by the Governor

Composition of the Ohio Board of Nursing

- 13 members
- 8 registered nurses, one of whom must be:
  - Either a Certified Nurse-Midwife (CNM)
  - Certified Nurse Practitioner (CNP)
  - Certified Registered Nurse Anesthetist (CRNA)
  - Clinical Nurse Specialist (CNS)

Licensees Opportunity to Address the Board

- Open Forum – held every Board meeting
  - Board meets two days every other month January–November
  - Rules Hearing- held in conjunction with every November Board meeting

Role of Employer

- Individual work place issues
- Employer may set additional requirements for position which may be higher than found in law
- Can restrict scope of practice, cannot expand

Limit of Board’s Authority

- Can only take action against those whom regulate (RNs, LPNs, Dialysis technicians, Community health workers, medication aides).
- Cannot take action against employers, but can investigate if a complaint if filed.
- Cannot mandate staffing ratios.

Legislation and Staffing

- Ratios
- Staffing principles
- Other states
- Ohio – Status
Meaning of Licensure

- Accountability
- Duty and obligation to perform in a manner that meets minimum standards
- Accountable by virtue of holding a license

Accountability and Liability

- Liability – determination occurs after an untoward event which has caused injury and damages are sustained.
- Liability determined in a civil action, a lawsuit for malpractice.

Negligence/Malpractice Elements

- Standard of Care
- Duty
- Breach of Duty
- Damages

Reducing Risk

- CANNOT escape accountability.
- CAN reduce risk for disciplinary action and malpractice.

Be Knowledgeable of Legal Standards Which Control Practice

- Being uninformed does not excuse the individual from accountability.

LAW-Nurse Practice Act
Ohio Revised Code 4723.

- Determined by:
  - Ohio General Assembly
  - State Senators and State Representatives
- Access:
  - Board website: (www.nursing.ohio.gov)
  - Local library
More than Nurses

- ORC 4723 regulates nurses, dialysis technicians, community health workers, medication aides.
- How did that happen?

Rules
Ohio Administrative Code 4723.

- Board has authority in law to propose rules which reflect current practice.
- Must review each rule at least every 5 years.
- Public process
- Access
- Same as law

Practice of Nursing as a Registered Nurse

- ORC 4723.01 Definitions
  - (A) “Registered nurse” means...
  - (B) “Practice of nursing as a registered nurse” means providing to individuals and groups nursing care requiring specialized knowledge, judgment and skill derived...
  - Such nursing care includes:
    - (1) Identifying patterns of human responses...
    - (2) Executing a nursing regimen...

Practice of RN: (cont.)

- (3) Assessing health status...
- (4) Providing health counseling and teaching.
- (5) Administering medications...
- (6) Teaching, administering, supervising, delegating and evaluating nursing practice.

Practice as a Licensed Practical Nurse

- ORC 4723.01(F) “The practice... providing care... at the direction of a licensed physician, dentist, podiatrist, optometrist, chiropractor, or registered nurse. Such care includes:
  - (1) Observation, patient teaching...
  - (2) Contributions to planning, implementation and evaluation

LPN: (cont.)

- (3) Administration of medications...
- (4) Administration to an adult of intravenous therapy...
### Scope - RN and LPN

- No differences in terms of setting
- Applies to all
- “At the direction of”
- No exemption for volunteering

### Orders

- ORC 4723.01 (B)(5) and (F)(3)
- From physicians
- From APNs
- From PA’s (ORC 4730)
- Duty to question orders – OAC 4723-4-03 (E) and (F)

### ORC 4723.43

Scope of Practice - CNM, CRNA, CNP, and CNS

- (A) certified nurse-midwife
- (B) certified registered nurse anesthetist
- (C) certified nurse practitioner
- (D) clinical nurse specialist

### ORC 4723.431

- Standard care arrangement for CNM, CNP, CNS
  - Requirements
- List of approved certifying organizations

### ORC 4723.481-.49

- Prescriptive authority sections for APNs
- Establishment of formulary
- Requirements for approval of pharmacology courses

### Dialysis Technicians - ORC 4723.72

- Perform and monitor dialysis procedures
- Draw blood
- Administer lidocaine, IV heparin, IV saline and dialysate
- Delegated by RN or MD
Community Health Workers - ORC 4723.81
- Only RN may supervise when delegating care
- Provide care in accordance with rules adopted under ORC 4723.88
- Apply for certificate from OBN
- May be disciplined by OBN

Medication Aide- ORC 4723.61
- Medication Aide Advisory Council
- Makes recommendations regarding design and operation of pilot program, curriculum, issues relevant to use of medication aides in nursing homes and residential care facilities.

ORC 4723.28- Disciplinary Provisions
- Spells out various infractions which could lead to disciplinary action.
- Outlines “due process” all holders of licenses and/or certificates.
  - i.e., Board does not “snatch” license without individual’s knowledge.
- Range of options in terms of discipline.

Alternatives to Discipline
- ORC 4723.282- Practice Intervention and Improvement program.
- For practice deficiencies which are amenable to remediation.
- ORC 4723.35- Alternative Program for Chemical Dependency.

Mandatory Reporting
- ORC 4723.34
- Employers must report any conduct which is grounds for disciplinary action by Board even if the employer does not take action.
- Prosecutors

Protection Against Retaliatory Action
- ORC 4723.33 added in 2000
- Added at the behest of the Ohio Nurses Association.
- Reinforces protection against retaliatory action provided by sections 4113.51 to 4113.53 of the Revised Code (whistleblower provisions).
**ORC 4723.71- 79**
- Dialysis technicians
- Delegation by physician or registered nurse
- Supervision requires immediate presence
- Medications limited

**ORC 4723.61**
- Medication Aides
- Delegation of RN or LPN
- May administer oral; topical; eye, ear, or nose; rectal/vaginal meds; PRN if nursing assessment completed.
- Shall not: schedule II; dosage calculations; injection, IV, splitting pills.

**ORC 4723.81- .88**
- Certification of community health workers
- Advocate for individuals and groups in the community
- Delegated by registered nurse
- No medication administration

**Selected Portions of Administrative Rules**
- OAC 4- Standards of Practice Relative to RN or LPN
- 4723-4-03 Competent practice as RN:
  - Demonstrate competence
  - Implement orders unless inaccurate, not properly authorized, not current or valid, harmful to pt., contraindicated.

**Rules: (cont.)**
- OAC 4723-4-03
  - Process for clarifying orders
  - Patient confidentiality
  - When providing direction to LPN, RN shall first assess: condition of client, type of care required, complexity of care, training and skill of LPN, availability of resources.

**OAC 4723-4-04**
- Standards relating to competent practice as LPN.
- Some are same as RN such as maintain competency, clarification of orders, patient confidentiality.
OAC 4723-4-05
- Standards for APNs
- Function within scope
- Evaluation provided by collaborating physician, podiatrist or nurse holding valid COA.
- Provide care within specialty when have education from a recognized body of knowledge, demonstrate KSA, maintain documentation.

OAC 4723-8
- Specific to APNs
- Standard care arrangement for CNM, CNP, CNS
- Quality Assurance standards:
  - Periodic random chart audit
  - Conference subsequent to chart review
  - Plan to utilize chart review to improve care
  - Client evaluation of care

OAC 4723-13
- Delegation of Nursing Tasks
- No delegation of nursing process

OAC 4723-23
- Dialysis Technicians
- Obtaining certificates
- Approval of training programs
- Requirements of training programs
- Approval of testing organizations
- Standards for safe dialysis care

OAC 4723-27
Medication Aides
- Oral, topical, nasal spray, or as drops, or ointment, rectal and vaginal meds, inhalants in single dose.
- No schedule II, meds requiring dosage calculations, non-approved drugs, clinical research, oxygen.

OAC 4723-14
- Continuing Education Rules
- CE requirements for renewal
- Proof of completion
- Approval as an OBN approver
Social Networking

- www.Nursingworld.org
- Social Media: Implications for Nursing
- www.ohnurses.org

Relevant ORC Sections

- 4723.28 (31) – failure to establish and maintain professional boundaries.
- 4723.28(19) – failure to practice with prevailing standards.
- 4723.28(32) – engaging in:
  - Sexual contact
  - Sexually demeaning behavior

Relevant OAC Sections

- 4723.28 (31) – failure to establish and maintain professional boundaries.
- 4723.28(19) – failure to practice with prevailing standards.
- 4723.28(32) – engaging in:
  - Sexual contact
  - Sexually demeaning behavior

Relevant OAC Sections

- 4723-4-06(I) – delineate, establish, and maintain professional boundaries
- 4723-4-06(K) – shall not:
  - Cause physical, verbal, mental, or emotional abuse
  - Any behavior construed as such

Relevant OAC Section

- 4723-4-06 (Q)
  - For purposes of (I), (J), (K), (L), (M), a nurse shall not use social media, texting, emailing or other forms of communication with, or about a patient, for non-health care purposes for purposes other than fulfilling assigned job responsibilities.
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