Ohio Nurse Practice Act & Rules of the Board of Nursing

**Basic Principles**
- Laws & rules are constantly changing
- Make sure you have most up-to-date information
- Make sure citations are accurate
- “Shall” is mandatory—“May” is optional

**Board of Nursing**
- Enforce Chapter 4723 ORC
- Sole purpose
- Public Protection
- Law is reactive, not proactive
- Someone’s malpractice gave birth to the law

**Board of Nursing**
- Board members appointed by the governor
  - 8 registered nurses, one must hold a certificate of authority
  - 4 licensed practical nurses
  - 1 consumer member
- Serve 4 year terms and may be re-appointed one time
- Nominations come from Nursing Assoc.

**Board of Nursing**
- Jurisdiction only over its licensees & certificate holders
- Can only do what it is authorized to do by law
  - Regulate pre-licensure educational/training programs
  - Issue credentials to qualified individuals
  - Disciplinary action

**Board of Nursing**
- Given rule-making authority
- Must promulgate rules according to statutory process
- Requires public input
- Have same force & effect as law
WHERE TO FIND THE LAWS & RULES

**LAW**
- Chapter 4723 of the Ohio Revised Code (ORC)
  aka
- Nurse Practice Act
- Law regulating nursing practice

**RULES**
- Chapters 4723-1 through 4723-27 of the Ohio Administrative Code (OAC)
  aka Rules of the Board

NURSES MUST KNOW BOTH

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**LAW**
- Only the General Assembly, the State Legislature, may pass laws.
  - Law first enacted in 1915
  - Licensure mandated for all nurses in 1967
  - Added dialysis technicians in 2000, CHWs in 2003 & MA-Cs in 2005

**RULE**
- Extent of rule-making authority set out in law
  - Must adopt rules in accordance with statutory procedures
  - Describe the "how" of the law

Example – Nurses must have continuing education

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**OBN/ONA What's the Difference?**

- **OBN**
  - Non-voluntary
  - Fees set by statute
  - Public entity
  - Minimal competency standards

- **ONA/LPNAO**
  - Voluntary
  - Dues set by members
  - Private entity
  - Standards of excellence

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**Why is Nursing Regulated?**

- Potential for public harm is significant
- To assure standardization of education
- To assure minimal competency
- To establish a statutory definition of nursing practice

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**Why Aren't Laws Black & White?**

- Changing the law is cumbersome
- Need to have sufficient flexibility so practice can evolve
- Intended to be general & apply to a variety of circumstances

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**Why are the Law & Rules Important?**

- Establish the legal scope of practice
- Identify legal standards of practice
- Establish grounds for discipline
- Provide a framework for public protection
Definitions

Section 4723.01 ORC
- Defines practice as
  - a registered nurse,
  - licensed practical nurse
  - nurse practitioner
  - clinical nurse specialist
  - certified nurse-midwife
  - certified registered nurse anesthetist
- These definitions become the legal scope of practice

Practice as an RN

Scope of Practice—Independent Functions
- Identifying patterns of human responses to actual or potential health problems amenable to a nursing regimen
- Executing a nursing regimen through the selection, performance, management, & evaluation of nursing actions

Practice as an RN

Scope of Practice—Independent Functions
- Assessing health status for the purpose of providing nursing care
- Providing health counseling & health teaching
- Teaching, administering, supervising, delegating, and evaluating nursing practice

Practice as an RN

Scope of Practice—Dependent Function
- Administering medications, treatments, & executing regimens authorized by an individual who is authorized to practice in Ohio & who is functioning within the course of that individual’s professional practice.

Supervision of RN

Someone who supervises a RN’s practice must be licensed as a RN
Providing Nursing Care

- Restorative nursing, ADLs, Comfort Care, Prevention of Pressure Ulcers ACCORDING TO STANDARDS OF SAFE CARE
- Nurse cannot practice medicine, eg determine a client is suitable for surgery, practice surgery, change physician’s orders

Practice as an LPN

- Scope of Practice—Practice at the direction of:
  - Registered nurse
  - Physician
  - Dentist
  - Podiatrist
  - Optometrist
  - Chiropractor

Practice as an LPN

- Scope of practice—Dependent only
  - Observation, patient teaching, & care in a diversity of health care settings
  - Contributions to the planning, implementation, & evaluation of nursing
  - Administration of medications & treatments
  - Administration to an adult of IV therapy only if specifically authorized to do so by the Board

Practice in an Advanced Practice Role

- Scope of practice—Standard of practice Agreement with a collaborating physician
- Allows these nurse to write orders for
  - Lab and diagnostic tests
  - Diet, activity
- Only those holding a CTP (Certificate to Prescribe) may write orders according to their formulary

Advanced Practice Nurses

Alphabet Scoop

- Master’s prepared and/or grandfathered in...
- APRN—BC Advanced Practice RN Board Certified
- COA Certificate of Authority
  - Nurse Practitioner—COA
  - Clinical Nurse Specialist—COA
- PA—Physician’s Assistant—are under the Medical Board, not OBN
Assessing Health Status

- Collection of data through nursing assessment techniques which may include:
  - Interviews
  - Observation
  - Physical evaluation
- For the purpose of providing nursing care

ASSESSMENT

- **LPN Role**
  - Contribute observations to the nursing assessment
  - Collect & record objective & subjective data & observations about client's condition
  - Report data & observations

- **RN Role**
  - Collect & document objective & subjective data
  - Modify assessment as appropriate
  - Analyze data
  - Establish, accept, or modify a nursing diagnosis or care plan

PROHIBITIONS (SECTION 4723.03 ORC)

- **Title protection**
- Must have a license to call yourself a nurse, even in a volunteer capacity
- Cannot employ a person and call them a nurse without the license
- Cannot sell or fraudulently obtain a license, certificate etc.

Prohibited Practices (SECTION 4723.151 ORC)

- Medical diagnosis
- Prescription of medical measures
- Practice of medicine or surgery or any of its branches
- Does not prohibit CRNA, CNM, CNP, CNS from practicing within their scope of practice

RENEWAL of LICENSE (Section 4723.24 ORC)

- Must renew license every two years
- Must complete continuing education – 24 hours for each licensing period
  - One hour must be directly related to the law & rules pertaining to nursing practice
- Board not required to provide a renewal application if nurse is ineligible to renew
EXEMPTIONS (Section 4723.32 ORC)

- Student nurse
  - Currently enrolled
  - With faculty supervision
- Employed as a UAP under delegation from an RN
- Care of family members
- Providing medical assistance under the direction, supervision, & control of a physician

EXEMPTIONS (Section 4723.32 ORC)

- Care of the sick in connection with the practice of religious tenets of any church by its members
- If licensed in another state when:
  - Discharging official military duties or if employed by or under contract with the U.S. government
  - Transporting through Ohio for no more than 72 hours

EXEMPTIONS (Section 4723.32 ORC)

- If licensed in another state when:
  - Consulting with an individual licensed in Ohio
  - Teaching as a guest lecturer
  - Conducting evaluations of nursing care for an accrediting organization
  - In a declared disaster
  - Providing care to someone in Ohio temporarily if the nurse is employed by the person. Cannot exceed 6 months in a calendar year

Preclusions from Licensure

- Board required to do criminal records checks on all new licensees
- Individuals convicted of certain egregious felonies are not eligible for licensure in Ohio
- Temporary permit now valid for 180 days to allow records check to be completed.

Criminal Records Checks

- Students enrolled in a nursing education program after June 1, 2003 must have a criminal records check completed before being eligible to take NCLEX

UNAUTHORIZED PRACTICE of NURSING

- Board has jurisdiction over only its licensees & certificate holders
- Unauthorized practice
  - Board may notify the individual of the alleged violation & individual must respond to the allegations
- May obtain a court order to enjoin or stop the practice
UNAUTHORIZED PRACTICE

- A violation of the prohibitions in Chapter 4723 ORC is a felony of the fifth degree on a first offense and a felony of the fourth degree subsequently.
- Nurses who practice without a current, valid license commit a minor misdemeanor.

Disciplinary Action (Section 4723.28 ORC)

- Board can take action only if the person violates Chapter 4723 ORC.
- Must provide due process to the nurse.
- Can revoke, suspend, restrict, fine or otherwise discipline.
- Discipline always remains part of the nurse’s record.

Board Actions

- Board must investigate all complaints.
- Investigations are confidential.
- Board has Subpoena Authority.
- No statute of limitations.
- Board action is public.

NURSE SHOULD SEEK LEGAL COUNSEL

Section 4723.28 ORC Offenses

- Law Change
  - Assisting suicide added to list of offenses leading to Board discipline.

Section 4723.28 ORC Offenses

- Disciplinary action elsewhere.
- Practicing without a license.
- Conviction, plea of guilty to, judicial finding of no contest or treatment in lieu of conviction in Ohio or elsewhere involving:
  - A misdemeanor in course of practice.
  - A felony or crime involving moral turpitude.
  - A violation of a drug law.
- Self administering a drug not in accordance with a valid prescription.

Section 4723.28 ORC Offenses

- Habitual indulgence in the use of a controlled substance to the extent that practice is impaired.
- Impairment of the ability to practice according to acceptable & prevailing standards of safe care due to a physical or mental disability.
- Assaulting or causing harm to a patient or depriving someone of the means to summon assistance.
Section 4723.28 ORC

Offenses

- Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice
- Adjudication as mentally ill or incompetent
- Violation of the nurse practice or the rules of the Board

- Failure to practice in accordance with acceptable & prevailing standards of safe care
- Practicing beyond one’s scope of practice
- Failure to comply with terms of the alternative program for chemical dependency or PIIP

Section 4723.28 ORC

Offenses

- Failure to establish & maintain professional boundaries with a patient
- Regardless of whether the contact or verbal behavior is consensual, engaging with a patient (other than a spouse) in:
  - Sexual contact
  - Verbal behavior that is sexually demeaning to the patient or may reasonably be interpreted by the patient as demeaning

November 2005 “Emerging Issues Conference”

- Professional boundaries allow for a safe connection with the client based on the client’s needs
- Boundary violations occur when there is confusion between the professional’s needs versus the client’s need

Questions Provided for Nurses to Use in Evaluating Boundary Issues

- Do you talk to your patients about your personal life?
- Do you tell your patients where you live and give them your phone number?
- Do you plan activities with patients outside of the unit?
- Do you complain about patients to other patients?
- Do you complain to patients about your own aches and pains?
- Do you complain to patients about other staff?
- Do you accept gifts from patients?
- Do you assist patients in their homes as a friend, not in your professional capacity?
- Do you buy or sell items from or to patients?
- Do you feel compelled to “fix” a patient’s problem more so than the patient does?
TAKING DISCIPLINARY ACTION

- Board members decide what level of discipline to impose
  - Nurse may request a hearing
  - Hearing officer presides
  - Witnesses are called
  - Evidence presented
  - May consider mitigating circumstances
- Board action is public & is reported

MANDATORY REPORTING (SECTION 4723.34 ORC)

- Every employer of nurses or dialysis technicians
- Prosecutors
- Nursing associations
- Must report the name of any current or former nurse or dialysis technician who has engaged in conduct that would be grounds for disciplinary action by the Board

Should You Report? (SECTION 4723.33 ORC)

- Protection from retaliation is provided if you follow whistleblower law (SECTION 4112.51-4112.54 ORC)
- May save a life
- May save a colleague
- Helps assure that those you work with are safe practitioners

Some Materials Provided by the Ohio Nurses Foundation

This information reflects the law in effect 2/01/08

Contact Information for the Ohio Board of Nursing
17 South High Street, Suite 400
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Additional Slides added by the QA Division of Omnicare Pharmacies