

APPENDIX I -- PART 3

DECLARATORY STATEMENTS OF THE BOARD OF NURSING

NUMBERS 22 TO 33

[NOTE: DELETED MATERIAL IS NOTED BY AN ELLIPSES (* * *)]

NO. 22

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE: THE PETITION FOR DECLARATORY
BON-DS-91-06

FINAL ORDER NO.:

STATEMENT OF:
JOYCE BROWN, R.N. AND
TERRY STRICKLAND, R.N.

FILED DATE: 2/27/1992

FINAL ORDER

This matter came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Rules 210-6.018 and 28-4.001-.007, Florida Administrative Code, on October 11, 1991, in Orlando, Florida for the purpose of considering the Petition for Declaratory Statement filed by Joyce Brown and Terry Strickland. Additional materials were requested and considered by the Board of Nursing at subsequent meeting on December 6, 1991, and February 14, 1992. Having considered the Petition and supporting documentation, course curricula; office protocols, pertinent status and rules, and testimony from Petitioners and interested parties, the Board of Nursing makes, the following factual findings and conclusions of law.

FINDINGS OF FACT

1. Joyce Brown and Terry Strickland are registered nurses, licensed by the State of Florida. They are nurses employed in the dental offices of Zakarin and Baldock. Ms. Brown and Ms. Strickland ask whether they can administer local infiltration anesthesia to the soft tissue of periodontal patients under a periodontist's direct supervision, specifically that of Dr. Zakarin or Dr. Baldock.

2. Section 464.003(3)(a), Florida Statutes, in pertinent part reads:

"Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment and nursing skill based upon applied principles of psychological, biological, physical and social science which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health

teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

2. The administration of medications and treatments as prescribed or authorized by the laws of this state to prescribe such medications and treatments.

3. Robert A. Zakarin, D.D.S., and William T. Baldock, D.D.S., M.S., are licensed by the State of Florida to practice dentistry. They practice together in Tallahassee, Florida, and limit that practice to surgical periodontics. This dental specialty includes bone grafts, artificial tooth implant procedures, and osseous surgery. Many periodontic procedures require the use of local anesthesia.

4. Doctor Zakarin and Baldock are subject to the jurisdiction of the Board of Dentistry, the Dental Practice Act, and the rules promulgated by the Board of Dentistry.

5. Although the Board of Nursing is not authorized to interpret or define dental practice, it asked for and received copies of Chapter 466, Florida Statutes, the Dental Practice Act, and the dental rules in 21G of the Florida Administrative Code. In order to determine whether licensed dentists are able to prescribe medications and treatments for nurses to administer under authority of Section 464.003(3)(a)(2)., Florida Statutes, the Board of Nursing sought the assistance and the courtesy of the Board of Dentistry in supplying this information.

6. A plain reading of the Dental statutes and rules by the Board of Nursing show the following:

a. Dentistry includes "oral and oral-maxillofacial surgery and any procedures adjunct thereto . . ." Section 446.003(3) Florida Statutes, and "[d]iagnosing, prescribing, or treating pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws or oral-maxillofacial region." Section 466.003(3)(f), Florida Statutes.

b. Dentists may "prescribe drugs or medicine, subject to limitations imposed by law, perform surgical operations within the scope of his practice and training; administer general or local anesthesia or sedation, subject to the limitations imposed by law."

c. A dentist using "any form of anesthesia must possess a certification on either basic cardiopulmonary resuscitation for health professional or advanced cardiac life support approved by the American Health Association or the American Red Cross or an equivalent agency sponsored course with recertification every 2 years. Each

dental office which uses any form of anesthesia must have immediately available and in good working order such resuscitative equipment, specified by rule of the board" Section 466.017(5), Florida Statutes.

d. Dentists using general anesthesia or parenteral conscious sedation must possess a permit from the Board of Dentistry. Prior to obtaining such a permit, the dentist must meet specific education and emergency care support requirements. Rules 21G-14.003 and 21G-14.005, Florida Administrative Code. There is no permit requirement for use of local anesthesia in dental practice. Rule 21G-14.002(1), Florida Administrative Code.

e. dentists are subject to disciplinary action by the Board of Dentistry for "[d]elegating professional responsibilities to a person who is not qualified by training, experience or licensure to perform them." Section 466.028(1)(aa), Florida Statutes.

f. Administration of topical anesthesia is not an irremediable task. Section 466.003(11), Florida Statutes.

g. Dentists may not delegate irremediable tasks to dental hygienists or assistants except as defined by law but may delegate remediable tasks which pose no risk to the patient. Section 466.024(1), Florida Statutes. Rule Chapter 21G-16, Florida Administrative Code, expands the remediable tasks vis-a-vis the dentist and the dental hygienist or dental assistant. The statutes and rules are silent on delegation of remediable or irremediable tasks to other licensees, save for the reference in the disciplinary provisions of Section 466.028(1)(aa), Florida Statutes.

h. "Direct supervision" means supervision whereby a dentist diagnoses the condition to be treated, a dentist authorizes the procedure to be performed, a dentist remains on the premises while the procedures are performed, and a dentist approves the work performed before dismissal of the patient. section 466.003(8), Florida Statutes.

7. Professional nursing education programs in the State of Florida are subject to review and approval by the Board of Nursing. Section 464.019, Florida Statutes. Training for nursing practice within a dental office and, specifically, administration of local infiltration anesthesia are not a part of the standard professional nursing curriculum. See Rule 210-7.025(2), Florida Administrative Code. Registered

professional nurses are in no way prohibited from advancing their skills through additional education and training. Continuing education is a requirement for biennial license renewal.

8. Ms. Brown has completed a continuing education course specifically designed to teach appropriate techniques for the administration of local infiltration anesthesia to the soft tissue intra-orally. Ms. Strickland intends to take this course if the Board finds that such practice is appropriate for a registered nurse. Both nurses have received special training from Doctors Baldock and Zakarin on these techniques.

9. The Board received a copy of the videotape, the course materials, and the test that Ms. Brown completed in her continuing education course. The course has not been approved for continuing education credit under Rule Chapter 210-13, Florida Administrative Code. This was due to the fact that the question posed by this Petition had not been clarified that administration of local infiltration anesthesia was within the scope of nursing practice. To receive approval, a continuing education course must involve a subject within the scope of nursing practice. However, upon review of the course materials, the Board is satisfied that the course would meet the other criteria for Board approval under Rule Chapter 210-13, Florida Administrative Code.

10. Competition for a continuing education course alone does not adequately train a registered nurse to administer local infiltration anesthesia to the soft tissue intra-orally licensees, the Board of Nursing, in consideration of the professional nursing curricula, finds its licensees should work in a setting that exceeds the minimum requirements for dentists. The Board in no way intends such statement to set or alter any standard of care for dentists.

11. The Board received and reviewed the office protocol used by Doctors Baldock and Zakarin for this procedure of local anesthesia. The dentist makes the decision to administer local anesthesia to a patient; the agents and anesthetics in type, amount and limit which the nurse may administer are specified; and the dentist provides direct supervision as defined by the Dental Practice Act.

12. The nurses shall not do mandibular blocks.

13. Doctors Baldock and Zakarin have the proper anesthesia permits as required in the Dental Practice Act and Rules. The Board was assured no complaints or disciplinary action has been initiated against their dental licenses for failing to maintain proper professional standards in the use and administration of these local anesthetics.

14. With respect to cardiopulmonary resuscitation and life support procedures, the Board recognizes that the Board of Dentistry has the authority to set standards for its licensees performing anesthesia. Rule 21G-14.003, Florida Administrative Code, requires a basic life support level of training for general anesthesia, parenteral conscious sedation, and nitrous-oxide inhalation. The rules are silent on local anesthesia. The Board finds that a registered nurse who administers local anesthesia in the dental setting must possess CPR certification at least at the basic life support level and the dentist must possess certification at the advanced life support level. Petitioners and their supervising dentists meet these criteria. Although the Board of Dentistry may not require advanced life support for its licensees, the Board of Nursing, in consideration of the professional nursing curricula, finds its licensees should work in a setting that exceeds the minimum requirements for dentists. The Board in no way intends such statement to set or alter any standard of care for dentists.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, Chapter 28-4 and Rule 210.6.018, Florida Administrative Code. The Petition was properly noticed.

2. Petitioners Joyce Brown and Terry Strickland have filed a Petition in compliance with section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code, and have established the requisite interest and standing to maintain this action.

3 A registered nurse, pursuant to Section 464.003(3)(a)2, Florida Statutes, may administer medications and treatments as prescribed by duly licensed dentists subject to the dentist's limitation in Chapter 466, Florida Statutes. The Board of Nursing draws this conclusion while reading this section in para materia with the remainder of Section 464.003(3), Florida Statutes. Licensed dentists are specified under section 464.003(3)(b), Florida Statutes, as appropriate health care practitioners who may direct licensed practical nurses, and under Section 464.003(3)(c), Florida Statutes, to supervise Advanced registered Nurse Practitioners.

4. Section 464.003(3), Florida Statutes, also provides that a professional nurse "shall be responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing."

5. Based upon Joyce Brown's and Terry Strickland's preparation and experience within periodontal practice of Doctors Zakarin and Baldock, the satisfactory protocols within that office, the dentists' compliance over and above the Board of Dentistry's minimal requirements for anesthesia, the cardiopulmonary certification, and the use of direct supervision, the Board of Nursing answers the question posed in the affirmative. These specially trained registered nurses may administer local infiltration anesthesia to the soft tissue intr-orally under the direct supervision of the periodontist for whom they are employed.

6. Petitioners are notified they may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Board, and by filing fee and one copy of a Notice of Appeal to the District Court of Appeal within (30) days of the date this Order is filed.

DONE and ORDERED this 27th day of February 1992.

BOARD OF NURSING

BETTY A. TAYLOR, R.N., MSN
Chairman

CERTIFICATION OF SERVICE

* * *

NO. 23

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE:

Petition for Declaratory

FINAL ORDER NO. BON-DS-
91-05

Statement of:

FINED DATE: 2/27/1992

DEE RICE, R.N.,
NETRA COCHRAN, L.P.N., AND
JODI ALLISON, L.P.N.

FINAL ORDER

This matter came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Rules 210-6.018 and 28-4.001-.007, Florida Administrative Code, on October 11, 1991, in Orlando, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Dee R. Rice, Netra Cochran, and Jodi Allison. Additional materials were requested and considered by the Board of Nursing at subsequent meetings on December 6, 1991, and February 14, 1992. Having considered the Petition and supporting documentation, course curricula, office protocols, pertinent status and rules, and testimony from Petitioners and interested parties, the Board of Nursing makes the following factual findings and conclusions of law.

FINDINGS OF FACT

1. Dee R. Rice is a registered nurse licensed by the State of Florida. Netra Cochran and Jodi Allison are licensed practical nurses licensed by the State of Florida. These nurses are employed in the dental offices of Eastman and Rubino in Bradenton, Florida. Petitioners ask whether they can administer local infiltration anesthesia to the soft tissue of periodontal patients under a periodontist's direct supervision.

2. Section 464.003(3)(a), Florida Statutes, in pertinent part reads:

"Practice of professional nursing" nursing means the performance of those acts requiring substantial specialized knowledge, judgment and nursing skill based upon applied principles of psychological, biological, physical and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of others.

2. The administration of medications and treatments as prescribed or authorized by the laws of this state to prescribe such medications and treatments.

3. Section 464.003(3)(b), Florida Statutes, in pertinent part reads:

"Practice of practical nursing" means the performance of selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm and the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatrist, or a licensed dentist.

4. Lindsay B. Eastman, D.D.S., M.S., and Thomas G. Rubino, D.D.S. and M.S. are licensed by the State of Florida to practice dentistry. They practice together in Bradenton, Florida, and limit that practice to surgical periodontics. This dental speciality includes bone grafts, skin grafts, artificial tooth implant procedures, and osseous surgery. Many periodontic procedures require the use of local anesthesia.

5. Doctors Eastman and Rubino are subject to the jurisdiction of the Board of Dentistry, the Dental Practice Act, and the rules promulgated by the Board of Dentistry.

6. Although the Board of Nursing is not authorized to interpret or define dental practice, it asked for and received copies of Chapter 466, Florida Statutes, the Dental Practice Act, and the dental rules in 21G of the Florida Administrative Code. In order to determine whether licensed dentists are able to prescribe medications and treatments for nurses. to administer under authority Section 464.003(3)(a)2., Florida Statutes, the Board of Nursing sought the assistance and the courtesy of the Board of Dentistry in supplying this information.

7. A plain reading of the Dental statutes and rules by the Board of Nursing show the following:

a. Dentistry includes "oral or oral-maxillofacial surgery and any procedures adjunct thereto. . ." Section 466.003(3), Florida Statutes, and "[d]iagnosing, prescribing, or treating . . . pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws or oral-maxillofacial region." Section 466.003(3)(f), Florida Statutes.

b. Dentists may "prescribe drugs or medicine, subject to limitations imposed by law; perform surgical operations within the scope of his practice and training; administer general or local anesthesia or sedation, subject to the limitations imposed by law . . ." Section 466.017(1), Florida Statutes.

c. A dentist using "any form of anesthesia must possess a certification in either basic cardiopulmonary resuscitation for health professionals or advanced cardiac life support approved by the American Health Association or the American Red Cross or an equivalent agency-sponsored course with recertification every 2 years. Each dental office which uses any form of anesthesia must have immediately available and in good working order such resuscitative equipment, oxygen, and other resuscitative drugs as are specified by rule of the board . . ." Section 466.017(5), Florida Statutes.

d. Dentists using general anesthesia or parenteral conscious sedation must possess a permit from the Board of Dentistry. Prior to obtaining such a permit, the dentist must meet specific education and emergency care support requirements. Rules 21G-14.003 and 21G-14.005, Florida Administrative Code. There is no permit requirement for use of local anesthesia in dental practice. Rule 21G-14.002(1), Florida Administrative Code.

e. Dentists are subject to disciplinary action by the Board of Dentistry for "[d]elegating professional responsibilities to a person who is not qualified by training, experience or licensure to perform them." Section 466.028(1)(aa), Florida Statutes.

f. Administration of topical anesthesia is not an irremediable task. Section 466.003(11), Florida Statutes.

g. Dentists may not delegate irremediable tasks to dental hygienists or assistants except as defined by law but may delegate remediable tasks which pose no risk to the patient. Section 466.024(1), Florida Statutes. Rule Chapter 21G-16, Florida Administrative Code, expands the remediable tasks vis-a-vis the dentist and the dental hygienist or dental assistant. The statutes and rules are silent on delegation of remediable or irremediable tasks to

other licensees, save for the reference in the disciplinary provisions of Section 466.028(1)(aa), Florida Statutes.

h. "Direct supervision" means supervision whereby a dentist diagnoses the condition to be treated, a dentist authorizes the procedure to be performed, a dentist remains on the premises while the procedures are performed, and a dentist approves the work performed before dismissal of the patient. Section 466.003(8), Florida Statutes.

8. Professional nursing programs in the State of Florida are subject to review and approval by the Board of Nursing. Section 464.019, Florida Statutes. Training for nursing practice within a dental office and, specifically, administration of local anesthesia is not a part of the standard professional nursing curriculum. See Rule 210-7.025(2), Florida Administrative Code. Registered professional nurses are in no way prohibited from advancing their skills through additional education and training. Continuing education is a requirement for biennial license renewal.

9. Practical nursing education programs in the State of Florida are subject to review and approval by the Board of Nursing. Section 464.019, Florida Statutes. The standard curricula for these programs are subject to Board approval and must meet the requirements of Rule 210-7.025(3), Florida Administrative Code. The training and education is for a considerably shorter duration than that for professional nurses with respect to the subjects covered and the clinical training. Because of inherent dangers in the use and administration of any anesthesia, the Board finds that practical nurses are not qualified by education and training to administer local anesthesia intra-orally.

10. The Board further finds that as technology and training progress in the health care field, techniques which years before may have been performed by a few specialists now may be handled by any number of practitioners in the health care professions at the present time.. Nurses, including practical nurses, must continue their education through Board approved continuing education and frequently through employer education and training. At some future point, the standard of practice within the nursing community may have progressed to expect the licensed practical nurse, in some circumstances, to be qualified to administer local anesthesia within a dental setting.

11. The Board received a copy of the protocol and training program that Doctors Eastman and Rubino use in their office. They amended the training program to include emphasize that "syncope reactions are dealt with by laying the patient supine, letting body deal with it on its own, and administering CPR as needed. Nurses shall continue to take and monitor vital signs."

12. The dentists intend to send their nurses to a special continuing education course as part of the training program.. The Board received a copy of the videotape, the course materials, and the test in this continuing education course. The course has not been approved for continuing education credit under Rule Chapter 210-13, Florida Administrative Code. This was due to the fact that the question posed by this Petition had not been clarified that administration of local infiltration anesthesia was within the scope of nursing practice. To receive approval, a continuing education course must involve a subject within the scope of nursing practice. However, upon review of the course would meet the other criteria for Board

approval under Rule Chapter 210-13, Florida Administrative Code. Completion of a continuing education course alone does not adequately train a registered nurse to administer local infiltration anesthesia to the soft tissue intra-orally.

13. Although Doctors Eastman and Rubino contemplated using nurses to perform mandibular blocks, they agreed to strike such a request.

14. Doctors Eastman and Rubino have the proper anesthesia permits as required in the Dental Practice Act and Rules. The Board was assured no complaints or disciplinary action had been initiated against their dental licenses for failing to maintain proper professional standards in the use and administration of these local anesthetics.

15. With respect to cardiopulmonary resuscitation and life support procedures, the Board recognizes that the Board of Dentistry has the authority to set standards for its licensees performing anesthesia. Rule 21G-14.003, Florida Administrative Code, requires a basic life support level of training for general anesthesia, parenteral conscious sedation, and nitrous-oxide inhalation. The rules are silent on local anesthesia. The Board finds that a registered nurse who administers local anesthesia in the dental setting must possess CPR certification at least at the basic life support level and the dentist must possess certification at the advanced life support level. Doctors Eastman and Rubino agreed to amend their protocol to require the dentist to have advanced life support certification, which they already have, and to specify at least basic certification for the nurse. Although the Board of Dentistry may not require advanced life support for its licensees, the Board of Nursing, in consideration of the professional nursing curricula, finds its licensees should work in a setting that exceeds the minimum requirements for dentists. The Board in no way intends such statement to set or alter any standard of care for dentists.

16. The dentists also clarified the protocol with respect to the formularies and limits to delineate those non-toxic levels of specific agents under which the nurse would perform. The protocol properly sets forth the responsibility, including direct supervision, which the dentist retains in administering the local anesthesia.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, Chapter 28-4 and Rule 210-6.018, Florida Administrative Code. The Petition was properly noticed in Vol. 17, Number 40, page 4662, of the Florida Administrative Weekly (October 4, 1991).

2. Petitioners Dee R. Rice, Netra Cochran, and Jodi Allison have filed a Petition in compliance with Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code, and have established the requisite interest and standing to maintain this action.

3. A registered nurse, pursuant to Section 464.003(3)(a)2, Florida Statutes, may administer medications and treatments as prescribed by duly licensed dentists subject to the dentist's limitations in Chapter 466, Florida Statutes. The Board of Nursing draws this conclusion while reading this section in para materia with the remainder of Section 464.003(3), Florida Statutes. Licensed dentists are specified under Section 464.003(3)(b), Florida Statutes, as appropriate health care practitioners who may direct licensed practical nurses, and under Section 464.003(3)(c), Florida Statutes, to supervise Advanced Registered Nurse Practitioners.

4. Section 464.003(3), Florida Statutes, also provides that a professional nurse "shall be responsible and accountable for making decision that are based up on the individual's educational preparation and experience in nursing."

5. Based upon Dee Rice's preparation and experience within periodontal practice of Doctors Eastman and Rubino, the satisfactory protocols within that office, the dentists compliance over and above the Board of Dentistry's minimal requirements for anesthesia, the cardiopulmonary certification, and the use of direct supervision, the Board of Nursing answers the question posed in the affirmative for the registered nurse. This specially-trained registered nurse may administer local infiltration anesthesia to the soft tissue intra-orally under the direct supervision of the periodontists for whom Ms. Rice is employed.

6. Netra Cochran and Jodi Allison as licensed practical nurses may not administer local infiltration anesthesia to the soft tissue intra-orally. This is not considered by the Board to be within the scope of practice of LPN's under Section 46.003(3)(b), Florida Statutes.

7. Petitioners are notified they may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Board, and by filing a filing fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date this order is filed.

DONE AND ORDERED this 27th day of February, 1992.

BETTY A. TAYLOR, R.N., M.S.N.
Chairman

CERTIFICATE OF SERVICE

* * *

NO. 24

**STATE OF FLORIDA
BOARD OF NURSING**

RE: THE PETITION FOR DECLARATORY
DS-92-03

FINAL ORDER NO.: BON-

STATEMENT OF:
JILL MARSHALL ALLEN

FILED DATE: 3/9/1993

FINAL ORDER

This matter came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code on October 16, 1992 in Sarasota, Florida and on December 11, 1992, in Orlando, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Jill Marshall Allen. Having considered the petition and the supporting documentation provided by Petitioner, the Board makes the following findings and conclusions.

FINDING OF FACT

1. Jill Marshall Allen is a registered nurse licensed in the state of Florida. She is a clinical staff nurse at Humana Hospital in Fort Walton Beach, Florida.
2. Ms. Allen asks whether it is within the scope of practice for a professional nurse as defined in Section 464.003(3), Florida Statutes, to perform endotracheal intubation in an emergency situation.
3. The facility at which Ms. Allen practices does not have any specific policy or procedure for registered nurses to perform intubation nor does it have any specific formal in-house training. It does have a basic critical care course and AHA approved Advanced Cardiac Life Support Course.
4. Section 464.003(3)(a), Florida Statutes, in pertinent part, reads:

(3)(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment and nursing skill based upon applied principles of psychological, biological, physical and social sciences which shall include, but not be limited to:

- (1) The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and

the promotion of wellness, maintenance of health. and prevention of illness of others.

(2) The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments, The professional nurse shall be responsible and accountable for malting decisions that are based upon the individual's educational preparation and experience in nursing.

5. Ms. Allen has completed the Advanced Cardiac Life Support course given by Humana Hospital. This course is taught by registered nurses who have completed the ACLS instructor course. two of whom are CCRN's and one is masters trained. Emergency Room physicians, anesthesiologists, and paramedics at the hospital have also been ACLS trainers. Ms. Allen and others taking the course are required to demonstrate competency on a manikin. Such competency is tested on a yearly basis.

6. The Board finds that anesthesiologists and certified registered nurse anesthetists by licensure and training may perform endotracheal intubation; that physicians, in general, by licensure may perform the procedure; and that such people may appropriately train others in the procedure.

7. The Board finds that manikin training does not provide sufficient demonstration of clinical competence. Since Ms. Allen lacks clinical training in which competence has been demonstrated and validated on patients under the direct supervision of an anesthesiologist or CRNA and the facility at which she works lacks the protocol for registered nurses doing endotracheal intubation, she may not perform endotracheal intubation in an emergency situation. Such a procedure is not forbidden for a properly trained registered nurse practicing under appropriate facility policy and procedures.

8. The petition was properly noticed in the Florida Administrative Weekly. No one from the facility in question or the public at large presented any testimony or evidence on the issue. Ms. Allen submitted documentation of the ACLS training and reference materials.

CONCLUSIONS OF LAW

1. The Board has. jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

2. The Petition filed by Ms. Allen is in substantial compliance with the provision of Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code. Petitioner has the requisite interest to maintain this proceeding.

3. It is the opinion of the Board of Nursing that Jill Allen may not intervene in an emergency situation to perform an endotracheal intubation because of insufficient training and experience as required by Section 464.003(3)(a), Florida Statutes.

4. Petitioner is notified she may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Board, and by filing a fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date this order is filed.

DONE and ORDERED this 9th day of March, 1993.

BOARD OF NURSING

BETTY A. TAYLOR, R.N., M.S.N.
Chairman

CERTIFICATE OF SERVICE

* * *

DENNIS M. GRANT
Business Manager

NO. 25

**STATE OF FLORIDA
BOARD OF NURSING**

RE: THE PETITION FOR DECLARATORY

FINAL ORDER NO.: BON-DS-
92-05

STATEMENT OF:
REBECCA WEINER, R.N. AND
SUSAN LUCHKA, R.N.

FILED DATE: 3/9/1993

FINAL ORDER

This matter came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on December 11, 1992, in Orlando, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Rebecca Weiner and Susan Luchka. Having considered the petition, the supporting documentation provided by Petitioner and testimony at the hearing, the Board makes the following findings and conclusions.

FINDING OF FACT

1. Rebecca Weiner is a registered nurse licensed in the state of Florida. She is the Acting Director of Nursing at Lawnwood Regional Medical Center in Fort Pierce, Florida. Susan Luchka is a registered nurse licensed in the state of Florida. She is a critical care nurse clinician at Lawnwood.

2. Petitioners ask whether it is within the scope of practice for professional nurses as defined in Section 464.003(3), Florida Statutes, to give analgesia via an intraperitoneal catheter to provide analgesia in the postoperative abdominal surgery patient.

3. Lawnwood Regional Medical Center has developed an intraperitoneal policy and procedure that sets forth the plan to provide pain relief for the postoperative patient by injecting local analgesia into the peritoneal space. The plan outlines that the surgeon shall order the local analgesia, specifying the amount, frequency, and method shall administer the initial dose, and shall remove the catheter. The policy also provides for emergency protocol. The physician's and the registered nurse's responsibilities are set forth in the plan.

4. Lawnwood Regional Medical Center established a post-basic education program for certification, demonstration, and post-testing of the registered nurses who are to engage in this intraperitoneal catheter pain management. The Board reviewed the educational outline, professional bibliography, and post-test validation. A sample patient care plan and critical care quality improvement form were also reviewed.

5. This Petition was properly noticed by the Board in the Florida Administrative Weekly.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

2. The Petition filed by Ms. Weiner and Ms. Luchka is in compliance with the provision of Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code. Petitioners have the requisite interest to maintain this proceeding.

3. Section 464.003(3)(a), Florida Statutes, in pertinent part, reads:

(3)(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment and nursing skill based upon applied principles of psychological, biological, physical and social sciences which shall include, but not be limited to:

(1) The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

(2) The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner

authorized by the laws of this state to prescribe such medications and treatments.

The professional nurse. . . shall be responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.

4. It is within the scope of practice under Section 464.003(3)(a). Florida Statutes, for the registered nurse to give analgesia via an intrapertioneal catheter provided that the nurse has had appropriate training and validation of the education, that the facility establishes adequate protocols, and that the physician/nursing responsibilities have been adequately delineated.

* * *

6. Petitioners are notified they may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Board, and by filing a filing fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date of this ordnr is filed.

DONE and ORDERED this 9th day of March, 1993.

BOARD OF NURSING

BETTY A. TAYLOR. R.N., MSN
Chairman

CERTIFICATE OF SERVICE

* * *

DENNIS M. GRANT
Business Manager

NO. 26

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE:

Petition for Declaratory
Statement of:

FINAL ORDER NO. BON-DS-93-03
FILED DATE: 4/19/1993

ELLEN PROSSER, R.N. and
HELEN DALTON, R.N.,

FINAL ORDER

This matter came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on February 19, 1993, in Tallahassee, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Ellen Prosser and Helen Dalton. Having considered the petition, the supporting documentation provided by Petitioners and the testimony from Petitioners, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Ellen Prosser and Helen Dalton are registered nurses licensed in the state of Florida. Ms. Prosser is the Director of Maternal Child Health at Munroe Regional Medical Center in Ocala. Ms. Dalton is the Vice President for Nursing at Munroe.

2. They ask whether it is within the scope of practice for a professional nurse as defined in Section 464.003(3), Florida Statutes, to perform endotracheal intubation during resuscitation of a neonate at birth.

3. The facility at which Ms. Prosser and Ms. Dalton practice delivers Level I perinatal care as described in the Guidelines for Perinatal Care, Third Edition, defined by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists. The nursing staff in Labor and Delivery and Newborn Nursery consists of 26.7 registered nurses, including 2 head nurse positions for 24 hour coverage. Three of the nurses are baccalaureate prepared while the remaining nurses received their basic nursing education in diploma or associate degree programs.

4. Endotracheal intubation during resuscitation of a neonate at birth is a high risk procedure

5. At present Munroe Regional Medical Center transfers high risk mothers and fetuses to Shands Teaching Hospital in Gainesville whenever possible for Level II or III perinatal care. These level hospitals have special intensive care facilities and greater staffing of specialists as outlined in the Guidelines for Perinatal Care.

6. Munroe Regional Medical Center does not have the full-time specialized staff recommended for Level II or, Level II facilities. The facility has a certified nurse midwife available 80-85% of the time and usually has a pediatrician available at birth. Certified nurse anesthetists are available "on call" for obstetrical patients desiring epidural anesthesia.

7. The facility has approximately 2000 deliveries annually. The cesarean section rate for October 1, 1991, to September 30, 1992, was 16%. Endotracheal intubation is a low volume procedure.

8. Among hospitals in Florida surveyed by Petitioners, endotracheal intubation during resuscitation of a neonate at birth is limited to ARNPs, certified nurse midwives and anesthetists,

neonatologists, pediatricians, obstetricians, transport nurses from Level III institutions, and occasionally respiratory therapists.

9. At Munroe Regional Medical Center Maternal Child Health Staff must complete the American Heart Association's Neonatal Resuscitation. Self Study. This, however, validates a nurse's role as an assistant rather than actually performing the procedure.

10. Because of the low volume of patients requiring endotracheal intubation, nurses at Munroe would have difficulty obtaining a skills validation or return demonstrations. According to the American Heart Association Textbook of Neonatal Resuscitation, endotracheal intubation is a difficult skill to maintain and master.

11. From the material presented, it does not appear that Munroe Regional Medical Center at present has the appropriate education and skills validation for the registered nurse to engage in endotracheal intubation during resuscitation of a neonate at birth.

12. Section 464.003(3) (a), Florida Statutes, in pertinent part, reads:

(3)(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment and nursing skill based upon applied principles of psychological, biological, physical and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments. The professional nurse shall be responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.

13. The petition was properly noticed in the Florida Administrative Weekly.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.
2. The Petition filed by Ms. Prosser and Ms. Dalton is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code. Petitioners have the requisite interest to maintain this proceeding.
3. It is the opinion of the Board of Nursing that registered professional nurses in the Maternal Child Health Department at Munroe Regional Medical Center do not have the appropriate training and education to perform the high risk procedure of endotracheal intubation during resuscitation of a neonate at birth.
4. Petitioners may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Board, and by filing a fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date this Order is filed.

DONE and ORDERED this 19th day of April, 1993.

BETTY TAYLOR, RN, MSN
Chairman

CERTIFICATE OF SERVICE

* * *

JUDIE RITTER

NO. 27

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE: THE PETITION FOR DECLARATORY
NO.: BON-DS-93-01
STATEMENT OF:
BONNIE CANTILLON, R.N.

FINAL ORDER

FILED DATE: 6/15/1993

FINAL ORDER

This matter came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on , February 19, .1993, .in Tallahassee, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Bonnie Cantillon. The matter was continued t-o the Board meeting in West Palm Beach, Florida, on April 16, 1993, for further testimony. Barbara Foster, Nurse Manager at Indian River Memorial Hospital, appeared on behalf of the facility.

Having considered the petition, the supporting documentation, and testimony from interested parties, the Board makes the .following findings and conclusions.

FINDINGS OF FACT

1. Bonnie Cantillon is a registered nurse licensed in the state of Florida. She is the Nursing Project Coordinator at Indian River Memorial Hospital (IRMH).

2. Ms. Cantillon asks whether it is within the scope of practice for registered nurses to hang pharmacy-mixed solutions for epidural infusions.

3. The facility has a written epidural management protocol approved by the Department of Anesthesiology and the appropriate nursing committee at IRMH. The protocol is pulled for each patient who is receiving Epidural Infusion on the nursing units. The nurse caring for this patient has the protocol on a clipboard

in the nurseserver and is able to see that the content in the protocol is the standard for caring for the patient. The nurse signs her initials on a Standards Flowsheet indicating that all assessments and interventions have been carried out as outlined in protocol, and documentation of appropriate assessment facts and reportable conditions is completed. If the assessment factors and interventions are not appropriate for the individual patient and the physician has written different orders, the nurse has the responsibility of professionally modifying the protocol by circling her initials, which indicates a change, writing the modification on the protocol, and noting the nature of the modification and reason for modification in the Nursing Progress Record.

4. Under the hospital policies, the appropriate anesthesia provider orders the epidural, places the catheter, assures the proper lines are connected, and then initiates the infusion. The present protocol states that only the anesthesiologist may hang a new bag of solution. The facility uses one of four medications as epidural infusions: Sublimaze, Duramorph, Dilaudid, or Fentanyl.

5. Because the anesthesiologist is the only one who may hang a new bag of solution, this poses some inconvenience for patients whose infusions may have to be discontinued on nights or weekends r for instance, when the anesthesiologist may be unavailable. The hospital proposes to modify its protocol to permit appropriately trained registered nurses on the unit to hang replacement bags whose solutions have been premixed by the pharmacy. No modification of the protocol is proposed to permit the nurse to place the catheter or initiate the infusion. Current monitoring and assessment of patients would continue after the registered nurse hangs the new bag.

6. Section 464.003(3)(a), Florida Statutes, in pertinent part, reads:

(3) (a) ." Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment and nursing skill based upon applied principles of psychological, biological, physical and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm and the promotion of wellness, maintenance of health, and prevention of illness of others.

2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

* * *

The professional nurse shall be responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.

7. The petition was properly noticed in the Florida Administrative Weekly.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

2. The Petition filed by Ms. Cantillon is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code. Petitioner has the requisite interest to maintain this proceeding.

3. It is the opinion of the Board of Nursing that registered professional nurses caring for patients receiving epidural infusions at Indian River Memorial Hospital may hang pharmacy-mixed solution replacement bags.

4. Petitioner may appeal this Order by filing one copy of a Notice of Appeal 'with ,the Clerk of the Board, and by filing a fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date this Order is filed.

DONE AND ORDERED this 15th day of June, 1993.

BOARD OF NURSING

BETTY TAYLOR, RN, MSN
CHAIRMAN

CERTIFICATE OF SERVICE

* * *

NO. 28

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE:

Petition for Declaratory
Statement of:
KATHLEEN HERIG, R.N.,
_____ /

FINAL ORDER NO. BON-DS-93-06
FINED DATE: 9/22/1993

FINAL ORDER

This matter came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on June 11, 1993, in Jacksonville, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Kathleen Herig. Having considered the petition and the supporting documentation provided by Petitioner the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Kathleen Herig is a registered nurse licensed in the state of Florida. She works as a staff member in a free-standing outpatient cardiac rehabilitation program.
2. She asks whether it is within the scope of practice for a professional nurse as defined in Section 464.003(3), Florida Statutes, to take orders from a physician out of state for medical treatment of a patient.
3. The patients in her facility do not always have a local physician. In a cardiac rehabilitation program, patients should be expected to be at risk for arrhythmias, blood pressure problems, and medication related problems associated with exercise.
4. Section 464.003(3)(a), Florida Statutes, in pertinent part, reads:
 - (3) (a) "Practice of professional nursing II means the performance of those acts requiring substantial specialized knowledge, judgment and nursing skill based upon applied principles of psychological, biological, physical and social sciences which shall include, but not be limited to:
 2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner

authorized by the laws of this state to prescribe such medications and treatments.

5. The petition was properly noticed in the Florida Administrative Weekly.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

2. The Petition filed by Ms. Herig is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code, She has the requisite interest to maintain this proceeding.

3. It is the opinion of the Board of Nursing that registered professional nurses must take orders for treatment of patients from physicians licensed in this state. It is not appropriate for them to take orders from physicians not properly licensed by Florida.

4. Petitioner may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Board and by filing a fee.

DONE and ORDERED this 22nd day of September, 1993.

BETTY TAYLOR, RN, MSN
Chairman

CERTIFICATE OF SERVICE

* * *

DENNIS M. GRANT

NO. 29

**STATE OF FLORIDA
BOARD OF NURSING**

RE: THE PETITION FOR DECLARATORY
BON-DS-93-07
STATEMENT OF:

FINAL ORDER NO.:

FILED DATE: 11/9/1993

THERESE A. KASPER, R.N.

CORRECTED FINAL ORDER

This matter came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on June 11, 1993, in Jacksonville, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Therese A. Kasper, R.N. The matter was continued to August 13, 1993, for additional information and ultimately referred to the Nursing Practice Committee. The Board heard testimony from the petitioner, her employer, the training physician; reviewed voluminous supporting documentation provided by Petitioner; and sought and received information from other state Boards of Nursing to determine the prevailing standard of practice in the nursing community.

FINDINGS OF FACT

1. Therese A. Kasper is a registered nurse licensed in the State of Florida. She is employed at the Mayo Clinic in Jacksonville.

2. She asks whether it is within the scope of practice for a registered nurse to perform lumbar punctures.

3. The Mayo Clinic has a neurology clinic staffed by a properly licensed physician specializing in neurology. The Mayo Clinics in Rochester, Minnesota and Scottsdale, Arizona have specially trained registered nurses performing lumbar punctures on an out patient basis. The Rochester facility conducts various training and educational clinics for its employees. The Jacksonville facility proposes to send Ms. Kasper to the Rochester facility to undergo training in the lumbar puncture procedure. It may consider training other registered nurses in the same manner should the patient census or other employment needs arise.

4. The Board received and reviewed the protocol proposed for the Jacksonville facility, the educational outline taught at the Rochester facility, and questioned the physician who would be in charge of the outpatient clinic in Jacksonville. Approximately 100-150 lumbar punctures are now performed annually at the facility by physicians. Both the Scottsdale and Rochester facilities have a similar patient census. A part of the training is to have the nurse work with the physician during a preceptorship, then perform such procedures under the direction of the physician.

5. The Board received information from the American Association of Neuroscience Nurses indicating that lumbar puncture can be performed by registered nurses. However, it was not a procedure normally taught in basic nursing programs.

6. The State of Colorado recognizes that registered nurses under certain circumstances may do lumbar punctures; California and Wisconsin have procedures for performance of delegated medical acts of which lumbar punctures would qualify. North Carolina and Kentucky have specifically declined to find such procedure is within the scope of practice of a registered nurse. Minnesota and Arizona have concluded that it is within the scope. The Board concludes that while only a handful of states have addressed the issue, the states are split.

7. The controlling law for Ms. Kasper is the Florida Nurse Practice Act. Section 464.003(3)(a), Florida Statutes, in pertinent-part, reads:

(3)(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment and nursing skill based upon applied principles of psychological, biological, physical and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

* * *

The professional nurse . . . shall be responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing. (Emphasis added).

8. The petition was properly noticed in the Florida Administrative Weekly.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

2. The Petition filed by Ms. Kasper is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code. Petitioner has the requisite interest to maintain this proceeding.

3. It is the opinion of the Board of Nursing that registered professional nurses in the Mayo Clinic in Jacksonville, specifically in the Department of Neurology would have the appropriate training and education to perform lumbar punctures under the specific training and protocol available through the Mayo Clinic in Jacksonville and Rochester. This however is limited entirely to the plan to be implemented within the confines of Mayo Clinic. In no way is it a blanket approval for other settings or other persons not so trained.

4. Petitioner may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Board, and by filing a fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date this Order is filed.

NUNC PRO TUNC this 11th day of October, 1993.

BOARD OF NURSING

BETTY TAYLOR, RN, MSN
Chairman

CERTIFICATE OF SERVICE

* * *

DENNIS M. GRANT

NO. 30

**STATE OF FLORIDA
BOARD OF NURSING**

RE: THE PETITION FOR DECLARATORY
94-03

FINAL ORDER NO.: BON-DS-

STATEMENT OF:
TERRI FRAIL, R.N.

FILED DATE: 9/13/1994

FINAL ORDER

This matter came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on August 12, 1994, in Orlando, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Terri Frail. Having considered the petition, the supporting documentation provided by Petitioner and the recommendation of the Nursing Practice Committee, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Terri Frail is a registered nurse licensed in the state of Florida. She is the Director of Labor and Delivery Nursing Services at North Shore Medical Center in Miami, Florida.
2. Petitioner asks whether it is within the scope of practice for professional nurses as defined in Section 464.003(3), Florida Statutes, to evaluate patients prior to the initiation of IV oxytocin and to follow physician orders for labor induction or augmentation with oxytocin (also known as Pitocin).
3. North Shore Medical Center has developed a course based on standards from the Association of Women's Health, Obstetric and Neonatal Nurses [AWHONN] and the American College of Obstetricians and Gynecologists [ACOG). Nurses would be trained, tested, and skills validated prior to being approved for the proposed procedure.

4. The facility has two levels of registered nurses in labor and delivery, the staff nurse and the senior nurse. Approximately half of the nurses are senior level. These persons generally have a BSN and are more experienced and clinically skilled nurses.

5. Hospital policy requires that the physician be available to the labor and delivery patients within thirty minutes. In the event that a patient's condition may require intervention in a shorter time than the physician can arrive, the facility proposes to have the labor and delivery nurses provide the necessary evaluation and induction or augmentation of labor by use of IV oxytocin. Only patients known to the hospital and from whose physicians the medical record and standing orders were previously supplied would be considered for this procedure. Further, labor and delivery services has and would use fetal heart monitors as part of the assessment and evaluation. The petitioner agreed that the policy should clarify that only the senior nurses would be permitted to provide these services. The facility has also outlined contra indications for oxytocin in specific patient conditions and procedures to be followed for complications.

6. This Petition was properly noticed by the Board in the Florida Administrative Weekly .

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida, Administrative Code.

2. The Petition filed by Ms. Frail is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code. Petitioner has the requisite interest to maintain this proceeding.

3. Section 464.003(3)(a), Florida Statutes, in pertinent part, reads:

(3)(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment and nursing skill based upon applied principles of psychological, biological, physical and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

4. It is within the scope of practice under Section 464.003(3)(a), Florida Statutes, for specially trained registered professional nurses in labor and delivery to evaluate specifically identified patients, for whom prior approval has been noted by the physician of record in the patient's medical record, and to initiate IV oxytocin (Pitocin) to induce or augment labor.

5. Petitioner is notified she may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Board, and by filing a fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date this Order is filed.

DONE AND ORDERED this 8th day of September, 1994.

BOARD OF NURSING

BETTY TAYLOR, RN, MSN
Chairman

CERTIFICATE OF SERVICE

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BRANDON L. MOORE
Deputy Agency Clerk

NO. 31

**STATE OF FLORIDA
BOARD OF NURSING**

RE: THE PETITION FOR DECLARATORY
94-02

FINAL ORDER NO.: BON-DS-

STATEMENT OF:
IRIS HELMUTH, RN,

FILED DATE: 4/13/1994

FINAL ORDER

This matter came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on April 8, 1994, in Tampa, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Iris Helmuth. Having considered the petition, the supporting documentation provided by Petitioner and the recommendation of the Nursing Practice Committee, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Iris Helmuth is a registered nurse licensed in the state of Florida. She is the Head Nurse of Obstetrical Services at Sarasota Memorial Hospital.
2. Petitioner asks whether it is within the scope of practice for professional nurses as defined in Section 464.003(3), Florida Statutes, to determine amniotic fluid indices [AFI] provided the nurses have specific institutional training for this procedure.
3. Sarasota Memorial Hospital has developed a course based on standards from the Association of Women's Health, Obstetric and Neonatal Nurses [AWHONN] on Limited Ultrasound Examinations in Obstetric and Gynecologic/Infertility Settings. Registered nurses must complete the hospital training prior to conducting an AFI assessment.
4. The facility has further developed policies and procedures and protocols for such assessments by the properly trained registered nurses in the Obstetrical Services unit. Such AFI assessment shall be ordered by the physician director of Maternal/Fetal Medicine to determine fetal well-being/compromise in outpatient testing of pregnant women. Should the assessment indicate an abnormal amniotic fluid volume, the patient shall be referred back to the physician for other diagnostic confirmatory tests.
5. The AFI assessment uses an ultrasound to identify and measure four pockets of amniotic fluid. Because it is a non-invasive test, the possibility of injury to a patient is essentially nonexistent.
6. This Petition was properly noticed by the Board in the Florida Administrative Weekly.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

2. The Petition filed by Ms. Helmuth is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code. Petitioner has the requisite interest to maintain this proceeding.

3. Section 464.003(3)(a), Florida Statutes, in pertinent part, reads:

(3)(a) "Practice of professional nursing" means the performance of those acts requiring substantial specialized knowledge, judgment and nursing skill based upon applied principles of psychological, biological, physical and social sciences which shall include, but not be limited to:

1. The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

2. The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.

4. It is within the scope of practice under Section 464.003(3)(a), Florida Statutes, for the registered nurse to conduct amniotic fluid indices assessment by use of ultrasound provided that the nurse has had the appropriate AWHONN Guideline training and validation of the education, that the facility establishes adequate protocols, and that the physician/nursing responsibilities have been adequately delineated.

5. Petitioner is notified she may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Board, and by filing a fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date this Order is filed.

DONE AND ORDERED this 13th day of April, 1994.

BOARD OF NURSING

BETTY TAYLOR, RN, MSN
Chairman

CERTIFICATE OF SERVICE

* * *

NO. 32

**STATE OF FLORIDA
BOARD OF NURSING**

IN RE: THE PETITION FOR DECLARATORY
BON-DS-94-04

FINAL ORDER NO.

STATEMENT OF:
KATHIE CALBONE, R.N.

FILED DATE: 9/13/94

FINAL ORDER

This matter came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on August 12, 1994, in Orlando, Florida for the purpose of considering the petition for Declaratory Statement filed by Kathie Calbone. Having considered the petition, the supporting documentation provided by Petitioner, and the testimony at the hearing, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Kathie Calbone is a registered nurse licensed in the State of Florida. She is the Assistant Administrator of Nursing Services at HealthSouth Doctor's Hospital in Coral Gables, Florida.
2. Ms. Calbone asks whether it is within the scope of practice for a professional nurse as defined in Section 464.003(3), Florida Statutes, to pronounce death on those patients whose death is anticipated, had occurred naturally, and to whom there were "Do Not Resuscitate" orders in the medical record.
3. HealthSouth Doctor's Hospital is a small community hospital. At times the attending physician is not present and the emergency room physician may not be immediately available.
4. The facility developed a protocol for specified registered nurses to attend an education course conducted by the emergency room physician to review cardiac auscultation, respiratory assessment, and psychosocial aspects. Those nurse supervisors-or nurse managers who successfully completed the course would be available to pronounce the death of hospital patients whose death was anticipated, occurred naturally, and for whom DNR orders are written in the medical record. The time, date, and criteria used to pronounce death would be documented in the physician progress notes and the nurse's notes. The attending physician would be responsible for signing the death certificate and completing the medical record.
5. HealthSouth Doctor's Hospital did not want to have the head nurse routinely pronounce death. Should the attending physician not be at the hospital and the emergency department physician be immediately unable to leave the emergency department to pronounce death, the facility sought to alleviate

unnecessary anxiety of the patient's family by having the House Supervisor/Nurse Manager pronounce death in the limited circumstances outlined in its policy and procedure.

6. The petition was properly noticed in the Florida Administrative Weekly.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

2. The Petition filed by Ms. Calbone is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code. Petitioner has the requisite interest to maintain this proceeding.

3. Section 464.003(3)(a), Florida Statutes, in pertinent part, reads:

(3)(a) "Practice of profession nursing" means the performance of those acts requiring substantial specialized knowledge, judgment and nursing skill based upon applied principles of psychological, biological, physical and social sciences which shall include, but not be limited to:

(1) The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.

(2) The administration of medications and treatments as prescribed or authorized by the laws of this state to prescribe such medications and treatments.

4. Sections 382.008(2) and (3), Florida Statutes, read:

(2) The funeral director who first assumes custody of a dead body or fetus shall file the death or fetal death certificate. In the absence of such a person, the physician or other person in attendance at or after the death shall file the certificate of death or fetal death. The person who registers the certificate shall obtain the personal data from the next of kin or the best qualified person or source available. The medical certification of cause of death shall be furnished to the funeral director, either in person or via certified mail, by the physician or medical examiner responsible for furnishing such information.

(3) Within 72 hours after receipt of a death or fetal death certificate from a funeral director, the medical certification shall be completed, signed, and made available to the funeral director by the physician in charge of the decedent's care for the illness or condition which resulted in death, or the physician in attendance at the time of death or fetal death or immediately before or after such death or fetal death, who shall certify over his signature the cause of death to his best knowledge and belief; except the provisions of s. 382.011 apply when the death or fetal death requires investigation pursuant to s. 406.11 or the death or fetal death occurred without medical attendance.

However, Section 382.009(1), Florida Statutes, regarding recognition of brain death, reads:

(2) Determination of death pursuant to this section shall be made in accordance with currently accepted reasonable medical standards by two physicians licensed under chapter 458 or chapter 459. One physician shall be the treating physician, and the other physician shall be a board-eligible or board certified neurologist, neurosurgeon, internist, pediatrician, surgeon, or anesthesiologist.

5. It is the opinion of the Board that pronouncement of death of HealthSouth Doctor's Hospital patients whose death was anticipated, occurred naturally, and for whom there were written orders not to resuscitate is within the scope of practice of a registered nurse under Section 464.003, Florida Statutes. This conclusion was based upon the Board's understanding of the terms "observation, assessment, nursing diagnosis" in Section 464.003(3)(a)1., Florida Statutes, and the absence of any express statutory provision regarding pronouncement of death such as determination of brain death in Section 382.009(2), Florida Statutes. HealthSouth Doctor's Hospital has articulated a specific policy designating the registered nurses, limited to the House Supervisor/Nurse Manager who may pronounce death and under what limited circumstances this may be done.

6. Petitioner is notified she may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Board, and by filing a filing fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date this order is filed.

DONE and ORDERED this 8th day of September 1994.

BOARD OF NURSING

BETTY A. TAYLOR, R.N., M.S.N.

Chairman

CERTIFICATE OF SERVICE

* * *

BRANDON L. MOORE
Deputy Agency Clerk

NO. 33

**STATE OF FLORIDA
BOARD OF NURSING**

RE: PETITION FOR DECLARATORY
STATEMENT OF:
DIANE S. SCALISE, RN and
KATHLEEN KING, RN

FINAL ORDER NO.: BON-DS-94-05
FILED DATE: 3/23/1995

FINAL ORDER

THIS MATTER came before the Board of Nursing pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code, on October 5, 1994, in Plantation, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Diane Scalise and Kathleen King.

The matter had been evaluated by the Nursing Practice Committee at regularly scheduled meetings in June, August, and October, 1994. Having considered the petition, the supporting documentation provided by Petitioners, the educational materials submitted at the regular Committee meetings, and the testimony from Petitioners, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Diane Scalise, RN, is a registered nurse in the state of Florida. She is the coordinator of Health Education Services for the School Board of Broward County, Florida. Kathleen King, RN, is a registered nurse in the State of Florida. She is an education consultant for the School Board of Broward County and a critical care clinical nurse specialist.

2. Petitioners ask whether it is within the scope of practice for specially trained licensed practical nurses within the public school setting in Broward County to care for chronic ventilator dependent patients who are to be "mainstreamed" into the regular classrooms in the Broward County school system.

3. Federal law such as Public Law 94-142 mandate that children with disabilities be identified and provided educational services in the least restrictive environment. The School Board of Broward County had placed two students who are ventilator dependent into regular classrooms. Two to four more

children are candidates for immediate placement if adequate health care services from licensed practical nurses are available and legally qualified. Approximately twenty students in Broward County are home-bound but may be eligible for evaluation for placement in the regular classroom under the federal mandate.

4. Petitioners as registered nurses recognize that they are responsible for the supervision of licensed practical nurses. The registered nurse is responsible for the patient's health care plan and must review and update such plan. However, to implement the federal mandate, they ask whether specific licensed practical nurses may provide direct care to the chronic, stable ventilator dependent child who is placed in the classroom, while the registered nurse remains available by telephone should the student/patient's condition warrant RN consultation/intervention.

5. Petitioners have surveyed, identified, researched, evaluated, and otherwise helped develop, a comprehensive ventilator course curriculum. They have also sought independent review of their recommended courses to validate the appropriateness and content of the model curriculum. The development and progress of these courses have been documented and shared with the Board of Nursing over the past year to ascertain theoretical and clinical hours can reasonably be assumed to assure adequate preparation for licensed practical nurses to care for the ventilator dependent student/patient in a safe and competent manner.

6. The registered nurses responsible for the Broward County ventilator dependent students hope to supervise indirectly a select few licensed practical nurses who have completed the course work proposed. Only LPN's who have had a variety of related work experiences prior to ventilator training would be considered for, selected for, and allowed to complete training and be assigned to individual patients.

7. Section 464.003(3)(b), Florida Statutes, in pertinent part provides:

"Practice of practical nursing" means the performance of selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm and the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatrist, or a licensed dentist.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Chapter 28-4, Florida Administrative Code.

2. The Petition filed by Ms. Scalise and Ms. King is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-4.001, Florida Administrative Code. Petitioners have the requisite interest to maintain this proceeding.

3. It is the opinion of the Board of Nursing that licensed practical nurses in the Broward County school system who have the appropriate training and education to perform direct patient care of ventilator dependent patients in the so-called mainstream classroom setting may do so without the necessity of direct registered nurse supervision.

4. Petitioners may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the board, and by filing a fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date this Order is filed.

DONE and ORDERED this 23rd day of March, 1995.

BOARD OF NURSING

BETTY TAYLOR, RN, MSN
Chairman

CERTIFICATE OF SERVICE

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