

CONNECTICUT STATE BOARD OF EXAMINERS FOR NURSING
MEMORANDUM OF DECISION

In Re: Petition for Declaratory Ruling January, 1989

I. BACKGROUND AND PROCEDURAL SUMMARY

Pursuant to the Connecticut Sunset Law, Conn. Gen. Stat. Subsection 2c-1 et seq., the general assembly reviewed the Board of Examiners for Nursing (hereinafter the "Board"). The assembly requested that the Board clarify the role of the licensed practical nurse (hereinafter the "LPN"). Toward this end, the Board set up a subcommittee to investigate the scope of practice of LPNs. The subcommittee summarized its findings on the present practice of LPNs in a report. The report also included the subcommittee's suggestions on how the LPN's role should be further clarified.

After reviewing the subcommittee's report, the Board chose to address the question of the role of the LPN by issuing a declaratory ruling. The Board also chose to hold a hearing prior to making any determination. Accordingly, the Board issued a notice of hearing, dated February 18, 1987, to consider three issues:

1. Clarification of the LPN's role in the application of the nursing process.
2. Clarification of the LPN's role in performing "selected tasks and sharing of responsibility under the direction of a registered nurse." Conn. Gen. Stat. Section 20-87a(b).
3. Clarification of the LPN's role when "collaborating in the implementation of the total health care regimen." Id. The notice of hearing designated the Commissioner of Health Services a party to the proceeding. Also designated parties were the members of the subcommittee: Dorothy Smith, Renee Ryan, Betty Cushman, Nancy Ryan, Rita Lambert, Patricia Eggleston, Virginia Alex, Mary Ellen O'Hurley, Kathleen C. Danehy, and Marie T. Hilliard.

The hearing was held on March 26, 1987 before the Board. Seven members were present: Betty Jane Murphy, Chairperson, Jean Bieszad, Timothy Johnston, Leonara Lewis, Emilia Mascaro, F. Irene Pittman, and Phyllis Porter. Written petitions for party status, dated March 2, 1987 and March 18, 198, were received from Virginia Cameron and E. Carol Polifroni, respectively. Both Ms. Cameron and Ms. Polifroni were denied party status at the hearing, but were granted intervenor status and permitted the right to participate in the hearing. In addition to Ms. Cameron and Ms. Polifroni, the following persons were given intervenor status and permitted the right to participate in the hearing: Marion Ramsey, Marilyn Richard, Beverly O'Connor, Lisa Holmes, Vivian Michaels, Micheline Nollez,¹ and Marjorie Spitzel. Rita Lambert was the only party who participated in the hearing.

At the hearing, all parties and intervenors were granted permission to submit supplemental statements to the Board. Such supplemental statements were received from Ms. Polifroni, Ms. Ramsey, Ms. Cameron and Ms. Spitzel. Ms. Cameron also submitted national guidelines on the competencies of the LPN, as well as documentation from the National Council of State Boards of Nursing, Inc. Ms. Spitzel submitted three additional documents: students evaluation form, progress report book, and LPN objectives. In addition, the subcommittee's reports was submitted to the hearing as an exhibit.

All members of the Board involved in this decision attest that they have either heard the case or reviewed the record of the proceedings. The decision is based entirely on the record presented and the specialized professional knowledge of the members of the Board in evaluating the evidence and the terms of Conn. Gen. Stat. Section 20-87a(b).

¹ Ms. Nollez chose not to participate by submitting neither verbal nor written testimony.

II. PURPOSE OF THIS DECLARATORY RULING PROCEEDING

Section 4-176 of the Connecticut General Statutes authorizes administrative agencies to issue rulings of the type requested in the instant proceeding. That statute reads in relevant part:

Each agency may, in its discretion, issue declaratory rulings as to the applicability of any statutory provision or of any regulation or order of the agency,

The statute further provides that the agency has discretion in the deciding whether or not to hold a hearing prior to issuing a ruling:

If the agency issues an adverse ruling, the remedy for an aggrieved person shall be an action for declaratory judgment under section 4-175 unless the agency conducted a hearing pursuant to sections 4-177 and 4-178 for the purpose of finding facts as a basis for such ruling, in which case the remedy for an aggrieved person shall be an appeal pursuant to section 4-183....

Accordingly, the Board chose to hold a hearing for the purpose of findings facts as a basis for its ruling.

The statute at issue in the instant proceeding is section 20-87a(b) of the Connecticut General Statutes. It defines the scope of LPN practice in the State of Connecticut:

The practice of nursing by a licensed practical nurse is defined as the performing of selected tasks and sharing of responsibility under the direction of a registered nurse and within the framework or supportive and restorative care, health counseling and teaching, case finding and referral, collaborating in the implementation of the total health care regimen and executing the medical regimen under the direction of a licensed physician or dentist.

In particular, the Board wanted to clarify the meaning of "selected tasks and sharing of responsibility under the direction of a registered nurse." Therefore, the Board considered the following questions:

- A. What are the selected tasks and shared responsibilities of the licensed practical nurse?
- B. What would comprise the proper and sufficient education and skills for the licensed practical nurse to carry out the selected tasks and shared responsibilities to protect and ensure the public health and welfare of Connecticut citizens?
- C. Which selected tasks, and shared responsibilities, if any, that are carried out by the licensed practical nurse under the direction of the registered nurse, would require advanced preparation?
- D. What would comprise proper and sufficient nursing direction by a registered nurse to a licensed practical nurse to ensure the public health and welfare of Connecticut citizens?
- E. What is the scope of practice within which a licensed practical nurse may function when performing those "selected tasks" without exceeding the proper and sufficient preparation, credentials, and nursing direction as addressed in the aforementioned issues A, B, C, and D?

In a more general context, the Board looked at the following aspects of the LPN's role in the nursing process:

- A. Assessment - making observations, gathering data, identifying needs and problems and diagnosing human responses relevant to the client.

- B. Planning - the development of comprehensive approaches and the total plans of care to meet the needs of clients and families.
- C. Implementation - carrying out the planned approaches to client care and therapeutic nursing techniques.
- D. Evaluation - data collection relevant to the outcome of the care, comparing outcome to objectives and making adjustments in the plan of care.

The Board also attempted to clarify the LPN's role when "collaborating in the implementation of the total health care regimen...."

The Board perceived a need to gather evidence on these questions in order to issue a ruling on the role of the LPN. Section III contains a summary of the evidence gathered in the instant proceeding.

III. EVIDENCE RECEIVED

A. Parties

Rita Lambert, a party to the proceeding, testified as to the need for the declaratory ruling. She stated that the Board does receive questions from LPNs concerning the appropriate scope of their role. The draft declaratory ruling,² therefore, incorporated "what is acceptable throughout the country as far as the application of the nursing process...." Transcript, p. 77.

As far as the care of the critically ill is concerned, she testified that LPNs are not trained to treat these patients. However, if LPNs have further education, they may treat the critically ill.

² Prior to the hearing, the Board prepared a draft declaratory ruling.

B. Intervenors

Carol Polifroni, R.N., an intervenor, testified on behalf of the Connecticut Nurses' Association (hereinafter the "CNA") in support of the need for a declaratory ruling to "carefully articulate, differentiate and delineate the role[s] ..." of the registered nurse (hereinafter "RN") and LPN. Transcript p. 14. However, she opposed the draft circulated by the Board. CNA's position was that "the practice of the LPN must be carefully supervised and guided by a licensed professional person" Transcript, p. 10. Therefore, CNA opposed any declaratory ruling, regulation or statute which would limit the practice arena of the LPN; a "laundry list or listing of any type of skills that a LPN can or cannot do ... [should not be included because the] decision as to what can or cannot be done must be determined by the Registered Nurse supervising the LPN" Transcript, pp. 12-13.

Ms. Polifroni also testified about the LPN's role in the phases on the nursing process (assessment, planning, implementation, and evaluation): LPNs may not diagnose, but may report data to the supervising RN; the LPN should not assist in identifying patients' needs; the LPN may contribute to and implement the care plan, but she should not design the care plan; and the LPN's data gathering assists in the evaluation of the care plan.

In addition, Ms. Polifroni testified that the declaratory ruling should require LPNs to be educated at the associate degree level. Where there are additional educational programs, these programs should be sponsored by a collage or university. CNA opposed a ruling which "would expand the scope of practice of the LPN if there is not an educational criteria as well." Transcript, p. 18. However, LPNs, with their present entry level abilities, should be able to work with less stable patients.

Marion Ramsey, an intervenor, testified on behalf of the Nursing Administrators of the State of Connecticut. She submitted written testimony, but did not provide oral testimony. The written statement provided in pertinent part,

The Nursing Administrators recommend to the Board of Nurse Examiners that they more closely review the scope of practice for the Licensed Practical Nurse in both the long-term care and acute care settings. The Nursing Administrators recommend the statement on the execution of the medical regime be amended to include "under the direction of the Registered Nurse, physician, or dentist:.

In addition, Nursing Administrators recommended that education at the associate degree level be required for the advanced practice of LPNs.

Virginia Cameron, L.P.N., an intervenor, testified on behalf of the Connecticut Licensed Practical Nurse Association, Inc. Like Ms. Polifroni, she opposed any ruling which would limit the LPN's scope of practice. In addition, Ms. Cameron advocated against a ruling which would include a "laundry list of functions for LPNs or RNs ..." Transcript, p. 28. On the other hand, Ms. Cameron's testimony provided that "...the LPN does have to make independent decisions and judgment ... [even though the LPN is] primarily dependent on those in statutory authority" Transcript, Exhibit H, p. 7.

As far as the LPN's expanded role, the Connecticut Licensed Practical Nurse Association proposed that experience and/or education in specialty areas be required.

Marjorie Spitzel, R.N., M.S., an intervenor, testified on behalf of the Practical Nurse Educators of Connecticut. She supported the draft declaratory ruling, but suggested a change in wording to more accurately define the interrelationship of the RN and LPN;

[The LPN] is prepared to function independently when caring for individuals with relatively stable conditions and dependently when conditions are other than stable, always in collaboration with an R.N.

She also submitted written testimony which addressed the role of the LPN and the tasks which an LPN is trained to accomplish.

On the issue of post-graduate education, Ms. Spitzel agreed with Ms. Cameron that employers should validate the LPNs' abilities to perform advanced procedures.

Marilyn Richard, R.N., an intervenor, testified that the declaratory ruling should be worded such that it be applicable to situations other than hospitals.

In addition, it was her opinion that the LPN should not be solely responsible for assessment, evaluation and planning.

Vivian Michaels, L.P.N., an intervenor, testified against a ruling which would list specific nursing functions. The health care facility "should have the authority to decide what the role [of the LPN] is within that institution...." Transcript, p. 52. She also stated that "it is the RN's responsibility ... to assess the LPNs "" [and] to determine what role ..." the LPN should play. Id.

Lisa Holmes, R.N., an intervenor, testified that there is a need to clarify the authority given by nursing licenses.

Beverly O'Connor, an intervenor, questioned the need of a declaratory ruling because both RNs and LPNs understand their roles. However, new legislation, Bill 245, presented a more critical problem requiring the Board's attention.

IV. FINDINGS OF FACT

1. The LPN is properly prepared to function under the definition and framework of his/her role as specified in section 20-87a(b) of the Connecticut General Statutes.

2. The selected tasks and shared responsibilities of the licensed practical nurse are continually changing as the art and science of nursing changes.

V. CONCLUSION

Based on the Board's interpretation of the terms of Conn. Gen. Stat. Section 20-87a(b) as further elucidated by the evidence presented at hearing, the Board hereby concludes that:

1. The LPN must perform his/her nursing functions and shared nursing responsibilities under the direction of a registered nurse.
2. The LPN is properly allowed to participate in all phases of the nursing process under the direction of the registered nurse, to the following extent:

A. Contribute to the nursing assessment by:

a) Collecting, reporting and recording objective and subjective data in an accurate and timely manner. Data collection includes:

- 1) Observation about the condition or change in condition of the client.
- 2) Signs and symptoms of deviation from normal health status.

B. Participate in the development of the strategy of care in consultation with other nursing personnel by:

Providing data.

Contributing to the identification of priorities.

Contributing to setting realistic and measurable goals.

- C. Participate in the assisting, delegating and giving of directed care by:
- a) Providing care for clients whose conditions are stabilized or predictable.
 - b) Providing care for clients whose conditions are critical and/or unpredictable under the direct supervision of the registered nurse and, when executing the medical regimen, under the direction of a licensed physician or dentist.
 - c) Implement nursing care according to the priority of needs and established goals.
 - d) Providing an environment conducive to safety and health.
 - e) Documenting nursing interventions and responses to care.
 - f) Communicating nursing interventions and responses to care to appropriate members of the health team.

The selected tasks and shared responsibilities of the licensed practical nurse are continually changing as the art and science of nursing changes. Thus, an itemized list of tasks and shared responsibilities cannot be identified. However, all licensed nurses are responsible for being adequately prepared for the nursing responsibilities they assume. Practical nurse licensure requires validation of completion of an approved preparatory program and successful completion of the licensing examination. This validation documents achievement of all theoretical and nursing skill competencies required of an entry level practical nurse in caring for individuals in any age group. This would comprise the proper and sufficient education and skills of the licensed practice nurse at the point of entry into the profession. Continuing education which validates competency may enable the licensed practical nurse to function competently beyond entry level.

All selected nursing tasks and shared nursing responsibilities must be carried out under the direction of the registered nurse. The direction of the registered nurse should be immediately available, on site, in health care agencies providing in-patient and out-patient nursing services. In community health settings, the registered nurse must be responsible for the total plan of nursing care and should be proximately available for on-site visits and available by telephone.

The licensed practice nurse collaborates in the implementation of the total health care regimen under the direction of a registered nurse as described above.

SO ORDERED.

February 7, 1989

Bette Jane M. Murphy, R.N.
Chairperson
Connecticut State Board of Examiners for Nursing