

STATE OF FLORIDA
BOARD OF NURSING

FILED

FEB 27 1992

IN RE: THE PETITION FOR DECLARATORY
STATEMENT OF:

FLORIDA STATE
BOARD OF NURSING

DEE R. RICE, R.N.,
NETRA COCHRAN, L.P.N., AND
JODI ALLISON, L.P.N.
Case No.: BON-DS-91-05

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" 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.

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

specialty 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 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.

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 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 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 the 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 materials, the Board is satisfied that 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 decisions that are based upon the individual's educational preparation and experience in nursing."

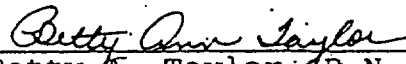
5. Based upon Dee Rice's preparation and experience within periodontal practice of Doctors Eastman and Rubino, the satisfactory protocols within that office, the dentists compliance over and above the Board of Dentistry's minimal requirements for anesthesia, the cardiopulmonary certification, and the 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 periodonists 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 464.003(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.

BOARD OF NURSING


Betty A. Taylor, R.N., M.S.N.
Chairman.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by certified mail to ROBERT KING HIGH, JR., Kitchens High, Post Office Box 1854, Tallahassee, Florida 32302, counsel for Petitioners, this 27th day of February, 1992.

