

STATE OF FLORIDA
BOARD OF NURSING

MAR 23 1995

FLORIDA STATE
BOARD OF NURSING

RE: Petition for Declaratory Statement of:

DIANE S. SCALISE, RN and
KATHLEEN KING, RN

CASE NO. BON-DS-94-05

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 Ann Taylor, R.N.

BETTY TAYLOR, RN, MSN
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by certified mail to Diane Scalise, RN, Coordinator, Health Education Services, 600 SE Third Avenue, Ft. Lauderdale, Florida 33301, and Kathleen King, RN, SHCI, 1500 SE 13th Street, Deerfield Beach, Florida 33441, this 23rd day of March, 1995.

Judie K. Ritter