

DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:

Petition for Declaratory
Statement of:

ESTELLE B. WILLIAMSON, R.N.

ORDER

Notice was published in the Florida Administrative Weekly on April 10, 1981, that the Board of Nursing had received a petition for declaratory statement from Estelle B. Williamson, R.N. requesting an interpretation of Chapter 464, Florida Statutes. In accordance with Section 120.565, Florida Statutes, the Board has reviewed this petition and being fully advised in the premises, makes the following Findings of Fact and Conclusions of Law with regard to the Petitioner:

FINDINGS OF FACT

1. The Petitioner seeks a declaratory statement from the Board concerning the legality of the "UTR" program in a hospital setting, maintaining that it places non-professional staff in supervisory positions over other non-professionals in the rendering of services to patients. According to the petition, R.N.'s who are a part of the UTR team have no line authority over non-professionals resulting in their performing nursing services without being licensed as a nurse and without acting under a nurse's direct supervision. The Petitioner fears that nurses participating in the UTR are placing their licenses in jeopardy.

2. The UTR (Unit Treatment and Rehabilitation) concept has been in use for several years in Florida's Mental Health facilities. This concept contrasts with the traditional "medical model" of mental health treatment, and may be variously referred to as the "unitization," "decentralization" and "multidisciplinary" approach to mental health care. The essence of this approach is the "teamwork" concept of mental health care delivery. Under this approach, all staff members

directly involved in mental health treatment participate in the development of a patient's treatment plan. That is, UTR specialists, rehabilitation therapists, social workers, and psychologists, as well as physicians, psychiatrists, and nurses participate in the development of the decision concerning the patient's treatment.

3. It is central to the UTR concept that non-medical and para-professional staff persons will participate in this decision-making process; at the same time, however, the Guide to Minimum Staffing Pattern Standards for State Mental Health Facilities in Florida, published by the Department of Health and Rehabilitative Services for use in the State mental health facilities, states:

The purpose of the team is not to have social workers prescribe medication, psychologists take blood pressures and give medications, or physicians administer Rorschachs. There are many well defined functions which are clearly within the purview of a particular profession (or job classification). A great majority of the necessary functions in quality patient care, however, are in a sense adisciplinary and could be performed by any team member.

In this sense, members of each discipline in the context of the team, serve first as team members with the ability to perform a common set of tasks. Secondly, each member serves as a consultant to the team, contributing those skills which are unique to his or her profession when they are believed by the team, to be needed. The team concept does not blur roles (Raskin, 1975), but rather it limits those occasions when team members function in manners totally unique to their respective disciplines. In most instances the number of these occasions will be fewer than was formerly believed.

Supervision of a team physician by the team leader extends to administration only. In medical matters, the physician is subordinate only to the clinical director. The intent of the Practice Act applying to the various disciplines such as dentists, nurses, physicians, and pharmacists will be strictly followed. In summary, the team concept is meant to optimize the utilization of the skills of all mental health workers. (e.s.)

It appears, then, that the UTR concept purports to recognize that mental health treatment is inter-disciplinary and that many aspects of a patient's treatment are not "medical" and therefore do not necessarily require performance of functions falling within a particular discipline as defined by one of the professional practice acts. At the same time, HRS stresses that in no event is a professional

under the direction (as to professional or medical decisions) of a team leader who is a non-professional and that all medical professionals will be solely responsible for carrying out those functions unique to their respective professions.

CONCLUSIONS OF LAW

1. The statutory provisions applicable to this petition are as follows:

Section 464.003 Definitions.-

(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 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.

3. The supervision and teaching of other personnel in the theory and performance of any of the above acts.

(b) "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 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.

Section 464.003(3)(a), Florida Statutes.

Section 464.016 Violations and penalties.-

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Practicing advanced or specialized, professional nursing, as defined in this chapter, unless holding an active license or certificate to do so.

(c) Knowingly employing unlicensed persons in the practice of nursing.

(2)(c) Knowingly concealing information relating to violations of this chapter.

Sections 464.016(1)(a); 464.016(1)(c); 464.016(2)(c), Florida Statutes.

Section 464.022 Exceptions.-

No provision of this chapter shall be construed to prohibit:

(5) The rendering of services by nursing assistants acting under the direct supervision of a registered professional nurse.

Section 464.022(5), Florida Statutes.

2. The Board must limit its declaratory statement to an interpretation of the Nurse Practice Act and how it might prohibit a nurse from functioning in a certain capacity in the UTR system; however,

the Board is not empowered to pass on the legality or wisdom of that system.

3. The Board recognizes that while certain functions relating to the treatment of mental illness may be encompassed within the practice of nursing as defined by Section 464.003(3)(a), Florida Statutes, many of the treatment procedures fall within the practice of other medical professionals, psychologists, or outside a single professional discipline. At the same time, it is recognized that certain functions may not be lawfully performed by non-professionals, except under defined circumstances. The Board would emphasize that those procedures which are in fact nursing functions as defined by statute may only be carried out by those licensed under Chapter 464, Florida Statutes, or in certain conditions by those under the supervision of a registered nurse. The Board considers the practice of nursing by unlicensed persons to be unauthorized and further considers that any institution or facility knowingly hiring unlicensed persons and allowing them to practice nursing functions would be in violation of §464.016(1)(c), Florida Statutes. Of particular concern to Petitioner is the administration of medications. If non-licensed personnel engage in the administration of medications to patients, they may only lawfully do so under direct supervision of a registered professional nurse. Section 464.022(5); AGO's 075-218 and 076-149. As set forth by HRS, and UTR concept does not contemplate that non-nurses perform nursing functions, but that if they do provide nursing services, they do so only under direct supervision of an R.N. as required by law. Section 464.016(1)(a) and (c), Florida Statutes.

4. Under the circumstances presented, it is concluded that the UTR concept, as defined, does not have the effect of causing nurses working within it to be in violation of Chapter 464, Florida Statutes. However, if in the implementation of the program, as with any program, violations of the act are present, the Board considers it mandatory that they be reported to the Department so that, if warranted, proper action can be taken.

DONE AND ORDERED this 20th day of August, 1981.

Mern Henry
MERN HENRY, Chairman
Board of Nursing

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
FLORIDA BOARD OF NURSING

In Re Petition for Declaratory

Statement of:

Florida Department of Health and
Rehabilitative Services.

DECLARATORY STATEMENT

This matter came before the Florida Board of Nursing pursuant to a request of the Florida Department of Health and Rehabilitative Services under §120.545, F.S., for issuance of a declaratory statement as to the appropriate functions which may be performed by an advanced registered nurse practitioner under Chapter 464, F.S. A public hearing was held in this matter, and a transcript of those proceedings is available, if required.

The Board supports the concept of advanced and specialized nursing practice, and recognizes that Chapter 464, F.S., should be construed to afford Advanced Registered Nurse Practitioners to function to the full extent as authorized by the Legislature. The Board, however, also recognizes that the Legislature made distinctions in the scope of practice of the various categories of Advanced Registered Nurse Practitioners.

Accordingly, the Board, in response to the Petition for Declaratory Statement as filed by the Department of Health and Rehabilitative Services, is of the opinion that, under Chapter 464, F.S., the following items may be performed by designated categories of Advanced Registered Nurse Practitioners. These functions, however, must be performed only in the category in which the advanced registered nurse practitioner is certified by the Florida Board of Nursing and in accordance with appropriate protocol.

Key:

ARNP - Advanced Registered Nurse Practitioner
 RNA - Registered Nurse Anesthetist
 RNM - Registered Nurse Midwife
 FNP - Family Nurse Practitioner
 FPNP - Family Planning Nurse Practitioner
 GNP - Geriatric Nurse Practitioner
 PNP - Pediatric Nurse Practitioner
 A/PCNP - Adult/Primary Care Nurse Practitioner
 OB/GYN NP - Obstetric/Gynecological Nurse Practitioner
 CHNP - College Health Nurse Practitioner
 DNP - Diabetic Nurse Practitioner
 ENP - Emergency Room Nurse Practitioner
 M-CH/FPNP - Maternal-Child Health/Family Planning Nurse Practitioner
 CNS - Clinical Nurse Specialist
 P/MH Nursing - Psychiatric/Mental Health Nursing

Medicaid Procedure Code	Description	Categories of ARNP May Perform Function
<u>OFFICE VISITS</u>		
99100	Initial visit	May be performed by all categories of ARNP.
99101	Follow-up visit	May be performed by all categories of ARNP.
<u>HOME VISITS</u>		
99102	Initial visit	May be performed by all categories of ARNP except RNA.
99103	Follow-up visit	May be performed by all categories of ARNP except RNA.
<u>HOSPITAL VISITS</u>		
99103	Initial visit	May be performed by all categories of ARNP.
99104	Follow-up visit	May be performed by all categories of ARNP.
99105	Routine newborn care	May be performed by all categories of ARNP.
<u>NURSING HOME VISITS</u>		
99106	One visit per month except for emergency services.	May be performed by all categories of ARNP.
<u>BOARDING HOME, DOMICILIARY OR CUSTODIAL CARE FACILITIES</u>		
99107	Initial visit	May be performed by all categories of ARNP.
99108	Follow-up visit	May be performed by all categories of ARNP.

<u>Medicaid Procedure Code</u>	<u>Description</u>	<u>Categories of ARNP Who May Perform Function</u>
<u>EMERGENCY CARE FACILITIES</u>		
99109	Initial visit	May be performed by all categories of ARNP.
99110	Follow-up visit	May be performed by all categories of ARNP.
<u>PROCEDURES INTEGRAL TO DIAGNOSIS OR TREATMENT WHICH MAY JUSTIFY AN ADDITIONAL FEE</u>		
99118	I & D of Cyst, one lesion	May be performed by: FNP, FPNP, A/PCNP, GNP, OB/GYN NP, PNP, CHNP, ENP
99119	I & D of cyst, 2nd lesion	May be performed by: FNP, FPNP, A/PCNP, GNP, OB/GYN NP, PNP, CHNP, ENP
99120	I & D apt each additional	RNM May be performed by: FNP, FPNP, A/PCNP, GNP, OB/GYN NP, PNP, CHNP, ENP
99121	Initial treatment, 1st degree burns, where only local treat- ment required.	RNM FNP, GNP, PNP, A/PCNP, CHNP, ENP.
99122	Dressing and/or debridement initial or subsequent, with- out anesthesia (office or hospital) small.	FNP, GNP, PNP, A/PCNP, CHNP, ENP.
99123	Medium (whole face or extremity).	FNP, GNP, PNP, A/PCNP, CHNP, ENP.
99124	Drainage of finger tip abscess, simple	FNP, GNP, PNP, A/PCNP, CHNP, ENP.
99125- 99126	Injections of medications	All categories of ARNP.
99127	Esophageal intubation	All categories of ARNP.
99128	Esophagus, acid infusion test	All categories of ARNP.
99129	Gastric intubation for Cytology	All categories of ARNP.
99130	Vital capacity	All categories of ARNP.
99131	Cardio-pulmonary resuscitation	All categories of ARNP.
99132	Gastric intubation and aspiration	All categories of ARNP.
99133	Gastric lavage	All categories of ARNP.
99134	Intermittent positive pressure	All categories of ARNP.
99135	Removal of foreign body intranasal	All categories of ARNP.

Medicaid Procedure Code	Description	Categories of ARNP Who May Perform Function
99136	Control hemorrhage--nasal anterior (unilateral or bilateral) with or without cauterization or anterior packs.	All categories of ARNP.
99137	Removal, foreign body, conjunctival superficial	All categories of ARNP.
99138	Removal, foreign body from auditory canal without general anesthesia	All categories of ARNP.
99139	I & D of furuncle	RNM, FNP, FPNP, GNP, PNP, A/PCNP, OB/GYN NP, CHNP, ENP, M-CH/FPNP.
99140	I & D of abscess, simple	RNM, FNP, FPNP, GNP, PNP, A/PCNP, OB/GYN NP, CHNP, ENP, M-CH/FPNP.
99141	Drainage of Pilonidal cyst, simple	RNM, FNP, FPNP, GNP, PNP, A/PCNP, OB/GYN NP, CHNP, ENP, M-CH/FPNP.
99142	Incision and removal of foreign body, subcut, simple	RNM, FNP, FPNP, GNP, PNP, A/PCNP, OB/GYN NP, CHNP, ENP, M-CH/FPNP.
99143	Drainage of hemotoma, simple	RNM, FNP, FPNP, GNP, PNP, A/PCNP, OB/GYN NP, CHNP, ENP, M-CH/FPNP.
99144	Puncture, aspiration of abscess, hematoma, cyst	RNM, FNP, FPNP, GNP, PNP, A/PCNP, OB/GYN NP, CHNP, ENP, M-CH/FPNP.
99145	Simple repair laceration, scalp, neck, axillae, external genitalia, trunk and extremities (including hands and feet)	RNM, FNP, FPNP, GNP, PNP, A/PCNP, OB/GYN NP, CHNP, ENP, M-CH/FPNP.
99200	Urinalysis, routine	All categories of ARNP
99201- 99202	Bleeding time, Duke Ivy	All categories of ARNP.
99203	Glucose, except urine	All categories of ARNP.
<u>HEMATOLOGY</u>		
99206	Blood count, basophile count direct	All categories of ARNP.
99207	Differential, WBC	All categories of ARNP.
99208	Differential, WBC, buffy coat	All categories of ARNP.
99209	Eosinaphile, count, direct	All categories of ARNP.
99210	Hematocrit	All categories of ARNP.

<u>Medicaid Procedure Code</u>	<u>Description</u>	<u>Categories of ARNP Who May Perform Function</u>
99211	Hemoglobin, colorimetric	All categories of ARNP.
99212	Hemogram, automated RBC, WBC, HGB, HCT and indices	All categories of ARNP.
99213	CBC with differential WBC	All categories of ARNP.
99214	Any of 3 of 99213 except indices	All categories of ARNP.
99215	With differential WBC	All categories of ARNP.
99216	With any 2 of 99212	All categories of ARNP.
99217	With differential WBC	All categories of ARNP.
99218	Manual complete CBC, RBC, WBC, HGB, HCT and diff.	All categories of ARNP.
99219	Any 4 of 99218	All categories of ARNP.
99220	Any 3 of 99218	All categories of ARNP.
99221	Any 2 of 99218	All categories of ARNP.
99222	RBC	All categories of ARNP.
99223	Reticulocyte count	All categories of ARNP.
99224	WBC	All categories of ARNP.
99225	Capillary fragility test (Rumpel-Leede) independent (procedure)	All categories of ARNP.
99226	Clot retraction, screen	All categories of ARNP.
99227	Prothrombin time	All categories of ARNP.
99228	Sedimentation rate (ESR) Wintrove type	All categories of ARNP.
99229	Westergren type	All categories of ARNP.
99230	Quantitative titer, first antigen	All categories of ARNP.
99231	Syphilis, precipitation or flucculation tests, qualitative VDRL, RPR, DRT	All categories of ARNP.
<u>MICROBIOLOGY</u>		
99232	Culture, bacterial, screening only, for single organism	All categories of ARNP.
99233	Smear, primary source, routine stain for bacteria, fungi, all type, each source includes interpretation	All categories of ARNP.
99234	Flourescent and/or acid fast stain, each source	All categories of ARNP.

<u>Medicaid Procedure Code</u>	<u>Description</u>	<u>Categories of ARNP Who May Perform Function</u>
99235	Smears (e.g., papanicolao) cervical or vaginal, screening and interpretation, up to 3 smears	All categories of ARNP
99236	Fat stain, feces, urine, sputum	All categories of ARNP.
99237	Gastric intubation and aspiration, single specimen, diagnostic	All categories of ARNP.
59990	Initial visit	RNM, FNP, FPNP, A/PCNP, OB/GYN NP, CHNP, M-CH/FPNP.
59991	Follow-up visit	RNM, FNP, FPNP, A/PCNP, OB/GYN NP, CHNP, M-CH/FPNP.
59992	Vaginal delivery only	RNM
59993	Total care	RNM
59994	Initial and follow-up visits, same	RNM, OB/GYN NP, FPNP, M-CH/FPNP.

FAMILY PLANNING

99600	All inclusive visit	RNM, FNP, FPNP, A/PCNP, OB/GYN NP, CHNP, M-CH/FPNP.
99146	Diaphragm fitting and instructions	RNM, FNP, FPNP, A/PCNP, OB/GYN NP, M-CH/FPNP.
99147	Insertion of IUD	RNM, FNP, FPNP, A/PCNP, OB/GYN NP, M-CH/FPNP.
99148	Removal of IUD	RNM, FNP, FPNP, A/PCNP, OB/GYN NP, M-CH/FPNP.

ANESTHESIA

The time units are computed by allowing one unit for each ten minutes. The total units are multiplied by a conversion factor to arrive at a fee.

RNA

PSYCHIATRY

99149- 99153	CNS P/MI Nursing
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The Board emphasized that all such functions listed above, however, must be rendered only in the performance of duties in the category in which the advanced registered nurse practitioner is certified by the Florida Board of Nursing.

DONE AND ORDERED this 15th day of March, 1980.

BOARD SEAL

Mary F. Mern Henry, R.N.
Ms. Mary F. Mern Henry, R.N.
Chairman, Board of Nursing