

STATE OF FLORIDA
BOARD OF NURSING

FILED

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FLORIDA STATE
BOARD OF NURSING

IN RE: THE PETITION FOR DECLARATORY
STATEMENT OF:

JOYCE BROWN, R.N. AND
TERRY STRICKLAND, R.N.
Case No.: BON-DS-91-06

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 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. 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 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. Robert A. Zakarin, D.D.S., and Wilham 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, skin grafts, artificial tooth implant procedures, and osseous surgery. Many periodontic procedures require the use of local anesthesia.

4. Doctors 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 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.

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. 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.

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 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.

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 Zakarian 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.

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

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 intra-orally under the direct supervision of the periodonists 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 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 Ann Taylor
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., Kitchen & High, Post Office Box 1854, Tallahassee, Florida 32302, counsel for Petitioners, this 27th day of February, 1992.


