



Chapter 1: Florida Laws for Nurses

2 Contact Hours

Author: Patricia Bratianu, RN, Ph.D, RH-AHG

Learning objectives

- ♦ Define the Nurse Compact Law and explain its impact on the nursing profession in Florida.
- ♦ Compare and contrast the advanced, specialized nursing practice to standard professional nursing practice as outlined in the Nurse Practice Act.
- ♦ Describe three major sections of the Nurse Practice Act as written by the Florida legislature.
- ♦ Explain the difference between clinical simulation and clinical training.
- ♦ List three areas of specialization under the title Advanced, Specialized Nurse Practitioner.
- ♦ Discuss in detail four violations described in the Nurse Practice Act.
- ♦ List and describe four duties in the practice of Registered Nurse First Assistant as defined by the Florida legislature.
- ♦ List and define five separate acts that are grounds for denial of a license or disciplinary action, as specified in statute 456.072(2).
- ♦ List and discuss five goals of the Florida Center for Nursing as described by the Florida legislature.
- ♦ Analyze and describe the relevance of HIPAA to the practice of nursing and give two examples of inappropriate practice that has resulted in HIPAA violations in nursing.

Background

The Florida State Board of Health (SBH) was created in 1889 and it was not until 1914 that three nurses were first hired. Prior to 1996 no uniform system or governing body existed to set standards or regulate the nursing profession. Oddly enough the professional normative process came from the unlikely source of telecommunications that set the course to regulate the use of electronics in the communication and service delivery for healthcare.

The development of the Telecommunications Act of 1996, passed by the United States Congress, addressed the rapid explosion of

electronics at all levels of healthcare. The Act established standards and procedures to normalize the use of electronics in healthcare throughout the United States. At that time, states set their own requirements for nursing certificating and few had a regulatory system to protect patients or sanction nurses for inappropriate practice resulting in harm to patients. In addition, there were no uniformed standards to protect patients who were harmed while outside of their home state or when they were treated by a nurse with an out-of-state license.

The beginning of multi-state regulation and laws governing nurses

The passage of the Telecommunications Act increased awareness of the need to standardize the profession of nursing throughout the U.S. The National Council of State Boards of Nursing (NCSBN) took the responsibility to develop a uniform set of standards to regulate the practice of nursing across the U.S. The Council developed the Multistate Regulation of Nursing - Nurse Licensure Compact on January 1, 2000, which governed Registered Nurses and Licensed Practical Nurses. The compact reviewed licensing procedures and served to augment individual state authority and regulation to promote safe and effective nursing care across the country.

Initially, the compact was limited in scope with only four states agreeing to pass it as law. The states who were part of the compact agreed a nurse licensed in the state in which he or she practiced, known as the home state license, could obtain a multistate license (MSR) based on their home state license. With this privilege and mobility to practice in multiple states came additional laws that set standards and held nurses accountable for the quality of their practice. Eventually, more states joined the compact, which is now considered law. The laws and regulations of the state of employment govern nurses practicing outside of their home state. It is the nurse's responsibility to have a thorough knowledge and work within the rules and regulations of that state, known as the party state, because

they are a party to the compact. Any violations in practice may lead to revocation of the privilege to practice nursing in the party state but will not necessarily affect the nurse's home state license. Any violations that occur in the party state are reported to the nurse's home state nursing board, investigated and disciplinary action may follow for the violation that took place in the party state.

The compact license privilege follows the procedures outline by individual state law, including the Nurse Practice Act of that state, and covers due process rights and disciplinary action related to the violation which occurred under the compact. All state systems are now coordinated to share information about nursing qualifications, practice specialization, violations, denial of privileges or license revocation, as well as other information required by law. By recognizing out-of-state licenses, the compact gives nurses the flexibility to practice across state lines, including health care services delivered through electronic communication, to reach areas that are underserved or difficult for patients to access healthcare. The HIPAA regulations, to be outlined in later sections, govern tele-nursing services, as well. The compact builds state cooperation to ensure regulation of nursing practice to protect patients and provide maximize quality care.

The Nurse Practice Act Florida Laws: FL Statutes - Title XXXII Regulation of Professions and Occupations - Section 464.00

The Nurse Practice Act is passed by the legislature of each state to ensure patient safety and standardize the scope and sequence of the profession at all levels. This course does not address specific education or licensing requirement or information from the Florida State Nursing Board, which serves under the direction of the Florida legislature following the legal statutes in the Nurse Practice Act (NPA). These sections of the 2012 NPA may be reviewed in their entirety on the Florida Senate Statutes website listed under resources and references at the end of this course.

The Florida NPA was developed and reviewed annually by the Florida legislature. The Florida NPA first appeared in Florida Senate archives in 1999 with the most recent modification in 2012. The 2012 NPA is the basis for this course and changes to the 2013 NPA are possible as the Affordable Care Act (ACA) is implemented which expands nursing resources, technology, prevention and outreach programs for minorities, children, and the aging population. The Florida NPA defines, regulates, and sanctions the nursing profession at all levels. The NPA creates and guides the Florida State Board of Nursing (BON) including the rules or regulations BON follows to implement the NPA law. As rules and regulations of the NPA are developed by the legislature they are published and available for public review. When complete they are passed by the legislature and become law. The Florida NPA includes the following components:

- Total control for the development and implementation of the BON.
- Nursing education and training standards.
- Scope and sequence of all levels of the nursing practice.
- Titles and licenses.
- Requirements for licensure.
- Procedures to address violations.
- Disciplinary action, sanctions, license revocation and denial of nursing privileges.
- Prevention and remedies to address potential violations.

464.002 Purpose

The sole legislative purpose is to ensure that every nurse practicing in this state meets minimum requirements for safe practice. It is the legislative intent that nurses who fall below minimum competency, or who otherwise present a danger to the public, shall be prohibited from practicing in this state.

464.003 Definitions in the NPA law

1. "Accredited program" means a program for the pre-licensure education of professional or practical nurses that is conducted in the United States at an educational institution, whether in this state, another state, or the District of Columbia, and that is accredited by a specialized nursing accrediting agency that is nationally recognized by the United States Secretary of Education to accredit nursing education programs.
2. "Advanced or specialized nursing practice" means in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of post basic specialized education, training, and experience, are appropriately performed by an advanced registered nurse practitioner. Within the context of advanced or specialized nursing practice, the advanced registered nurse practitioner may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced registered nurse practitioner may also perform acts of medical diagnosis and treatment, prescription, and operation which are identified and approved by a joint committee composed of three members appointed by the Board of Nursing, two of whom must be advanced registered nurse practitioners; three members appointed by the Board of Medicine, two of whom must have had work experience with advanced registered nurse practitioners; and the State Surgeon General or the State Surgeon General's designee. Each committee member appointed by a board shall be appointed to a term of four years unless a shorter term is required to establish or maintain staggered terms. The Board of Nursing shall adopt rules authorizing the performance of any such acts approved by the joint committee. Unless otherwise specified by the joint committee, such acts must be performed under the general supervision of a practitioner licensed under chapter 458, chapter 459, or chapter 466 within the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance. The department may, by rule, require that a copy of the protocol be filed with the department along with the notice required by s. 458.348.
3. "Advanced registered nurse practitioner" means any person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice, including certified registered nurse anesthetists, certified nurse midwives and nurse practitioners.
4. "Approved program" means a program for the pre-licensure education of professional or practical nurses that is conducted in the state at an educational institution and that is approved under s. 464.019. The term includes such a program placed on probationary status.
5. "Board" means the Board of Nursing.
6. "Clinical nurse specialist" means any person licensed in this state to practice professional nursing and certified in clinical nurse specialist practice.
7. "Clinical nurse specialist practice" means the delivery and management of advanced practice nursing care to individuals or groups, including the ability to:
 - a. Assess the health status of individuals and families using methods appropriate to the population and area of practice.
 - b. Diagnose human responses to actual or potential health problems.
 - c. Plan for health promotion, disease prevention and therapeutic intervention in collaboration with the patient or client.
 - d. Implement therapeutic interventions based on the nurse specialist's area of expertise and within the scope of advanced nursing practice, including, but not limited to, direct nursing care, counseling, teaching and collaboration with other licensed health care providers.
 - e. Coordinate health care as necessary and appropriate and evaluate with the patient or client the effectiveness of care.
8. "Clinical preceptor" means a registered nurse or licensed practical nurse that is employed by a clinical training facility to serve as a role model and clinical resource person for a specified period to students enrolled in an approved program.
9. "Clinical simulation" means a strategy used to replicate clinical practice as closely as possible to teach theory, assessment, technology, pharmacology and skills.
10. "Clinical training" means direct nursing care experiences with patients or clients which offer the student the opportunity to integrate, apply, and refine specific skills and abilities based on theoretical concepts and scientific principles.
11. "Community-based clinical experience" means activities consistent with the curriculum and involving individuals, families, and groups with the intent of promoting wellness, maintaining health, and preventing illness.
12. "Curriculum" means a planned sequence of course offerings and learning experiences that comprise a nursing education program.

13. "Department" means the Department of Health.
14. "Educational institution" means a school, college, or university.
15. "Graduate passage rate" means the percentage of a program's graduates who, as first-time test takers, pass the National Council of State Boards of Nursing Licensing Examination during a calendar year, as calculated by the contract testing service of the National Council of State Boards of Nursing.
16. "Licensed practical nurse" means any person licensed in this state to practice practical nursing.
17. "Nursing diagnosis" means the observation and evaluation of physical or mental conditions, behaviors, signs and symptoms of illness, and reactions to treatment and the determination as to whether such conditions, signs, symptoms, and reactions represent a deviation from normal.
18. "Nursing treatment" means the establishment and implementation of a nursing regimen for the care and comfort of individuals, the prevention of illness, and the education, restoration and maintenance of health.
19. "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 podiatric physician, or a licensed dentist. A practical nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.
20. "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:
 - a. 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.
 - b. 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.
 - c. The supervision and teaching of other personnel in the theory and performance of any of the acts described in this subsection.

A professional nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.
21. "Probationary status" means the status of an approved program that is placed on such status pursuant to s. 464.019.
22. "Registered nurse" means any person licensed in this state to practice professional nursing.
23. "Required passage rate" means the graduate passage rate required for an approved program pursuant to s. 464.019(6)(a) 1.

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, or practical nursing, as defined in this part, unless holding an active license or certificate to do so.
 - b. Using or attempting to use a license or certificate which has been suspended or revoked.
 - c. Knowingly employing unlicensed persons in the practice of nursing.

- d. Obtaining or attempting to obtain a license or certificate under this part by misleading statements or knowing misrepresentation.
2. Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:
 - a. Using the name or title "Nurse," "Registered Nurse," "Licensed Practical Nurse," "Clinical Nurse Specialist," "Certified Registered Nurse Anesthetist," "Certified Nurse Midwife," "Advanced Registered Nurse Practitioner," or any other name or title which implies that a person was licensed or certified as same, unless such person is duly licensed or certified.
 - b. Knowingly concealing information relating to violations of this part.

464.017 Sexual Misconduct in the Practice of Nursing

The nurse-patient relationship is founded on mutual trust. Sexual misconduct in the practice of nursing means violation of the nurse-patient relationship through which the nurse uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of nursing is prohibited.

464.018 Disciplinary Actions

1. The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):
 - a. Procuring, attempting to procure, or renewing a license to practice nursing by bribery, by knowing misrepresentations, or through an error of the department or the board.
 - b. Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.
 - c. Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.
 - d. Being found guilty, regardless of adjudication, of any of the following offenses:
 1. A forcible felony as defined in chapter 776.
 2. A violation of chapter 812, relating to theft, robbery, and related crimes.
 3. A violation of chapter 817, relating to fraudulent practices.
 4. A violation of chapter 800, relating to lewdness and indecent exposure.
 5. A violation of chapter 784, relating to assault, battery and culpable negligence.
 6. A violation of chapter 827, relating to child abuse.
 7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.
 8. A violation of chapter 39, relating to child abuse, abandonment and neglect.
 - e. Having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.04 or similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28.
 - f. Making or filing a false report or record, which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those that are signed in the nurse's capacity as a licensed nurse.
 - g. False, misleading, or deceptive advertising.
 - h. Unprofessional conduct, as defined by board rule.

- i. Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in chapter 893, for any other than legitimate purposes authorized by this part.
 - j. Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in statute 51.011. A nurse affected by the provisions of this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.
 - k. Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or the board; however, if the licensee verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the licensee is required to report such person only to an impaired professionals consultant.
 - l. Knowingly violating any provision of this part, a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.
 - m. Failing to report to the department any licensee under chapter 458 or under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the nurse also provides services.
 - n. Failing to meet minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the licensee is not qualified by training or experience.
 - o. Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.
- b. Convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to:
 1. Review and comment on data analysis prepared for the center;
 2. Recommend systemic changes, including strategies for implementation of recommended changes; and
 3. Evaluate and report the results of these efforts to the Legislature and others.
 - c. Enhance and promote recognition, reward, and renewal activities for nurses in the state by:
 1. Promoting nursing excellence programs, such as magnet recognition by the American Nurses Credentialing Center;
 2. Proposing and creating additional reward, recognition, and renewal activities for nurses; and
 3. Promoting media and positive image-building efforts for nursing.

464.027 Registered Nurse First Assistant

- 1. Legislative Intent** - The purposes of this section are to:
 - a. Encourage the use of registered nurse first assistants who meet the qualifications of this section as "assistants at surgery" by physicians and hospitals to provide quality, cost-effective surgical intervention to health care recipients in the state.
 - b. Provide for reimbursement for the registered nurse first assistant from managed health care agencies, state agencies, workers' compensation carriers, and private insurance companies.
- 2. Definitions**
 - a. "Perioperative nursing" means a practice of nursing in which the nurse provides preoperative, intraoperative, and postoperative nursing care to surgical patients.
 - b. "Recognized program" means a program that:
 1. Addresses all content of the Association of Operating Room Nurses, Inc. Core Curriculum for the Registered Nurse First Assistant, and
 2. Includes one academic year, defined as 45 hours of didactic instruction and 120 hours of clinical internship or its equivalent of two college semesters.
 - c. "Registered nurse first assistant" means a person who meets the qualifications listed in this section.
- 3. Qualifications** - A registered nurse first assistant is any person who:
 - a. Is licensed as a registered nurse under this part;
 - b. Is certified in perioperative nursing; and
 - c. Holds a certificate from, and has successfully completed, a recognized program.
- 4. Institutional Power** - Each health care institution must establish specific procedures for the appointment and reappointment of registered nurse first assistant staff members and for granting, renewing, and revising their clinical privileges.

464.201 Definitions

1. "Approved training program" means:
 - a. A course of training conducted by a public sector or private sector educational center licensed by the Department of Education to implement the basic curriculum for nursing assistants which is approved by the Department of Education. Beginning October 1, 2000, the board shall assume responsibility for approval of training programs under this paragraph.
 - b. A training program operated under statute 400.141.
2. "Board" means the Board of Nursing.
3. "Certified nursing assistant" means a person who meets the qualifications specified in this part and who is certified by the board as a certified nursing assistant.

4. "Department" means the Department of Health.
5. "Practice of a certified nursing assistant" means providing care and assisting persons with tasks relating to the activities of daily living. Such tasks are those associated with personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, safety and cleanliness, data gathering, reporting abnormal signs and symptoms, postmortem care, patient socialization and reality orientation, end-of-life care, cardiopulmonary resuscitation and emergency care, residents'

or patients' rights, documentation of nursing-assistant services, and other tasks that a certified nurse assistant may perform after training beyond that required for initial certification and upon validation of competence in that skill by a registered nurse. This subsection does not restrict the ability of any person who is otherwise trained and educated from performing such tasks.

6. "Registry" means the listing of certified nursing assistants maintained by the board.

The School Nurse Pilot Program

To meet the increasingly complex health needs of K-12 public school students in Florida the legislature has passed a law to expand health services, nursing programs and staff in the public schools as determined by need based on a number of factors. The following Florida Statutes from 2012 has been condensed to focus on nurses in the schools designated for services.

381.005 School Health Services

1. The State Surgeon General, or his or her designee, in cooperation with the Commissioner of Education, or his or her designee, shall publicize the availability of funds, targeting those school districts or schools which have a high incidence of medically underserved high-risk children, low birth weight babies, infant mortality, or teenage pregnancy.
2. The State Surgeon General, or his or her designees, in cooperation with the Commissioner of Education, or his or her designees, in equal representation, shall form a joint committee to evaluate and select the school districts or schools to be funded.
3. School health services shall not promote elective termination of pregnancy as a part of health counseling services. Only those program proposals which have been developed jointly by county health departments and local school districts or schools, and which have community and parental support, shall be eligible for funding. Funding shall be available specifically for implementation of one of the following programs:
 - a. **School health improvement pilot project** - The program shall include basic health care to an elementary school, middle school, and high school feeder system. Program services shall include, but not be limited to:
 1. Planning, implementing, and evaluating school health services. Staffing shall include a full-time, trained school health aide in each elementary, middle, and high school; one full-time nurse to supervise the aides in the elementary and middle schools; and one full-time nurse in each high school.
 2. Providing student health appraisals and identification of actual or potential health problems by screenings, nursing assessments, and record reviews.
 3. Expanding screening activities.
 4. Improving the student utilization of school health services.
 5. Coordinating health services for students with parents or guardians and other agencies in the community.
 - b. **Student support services team program.** The program shall include a multidisciplinary team composed of a psychologist, social worker, and nurse whose responsibilities are to provide basic support services and to assist, in the school setting,

children who exhibit mild to severely complex health, behavioral, or learning problems affecting their school performance. Support services shall include, but not be limited to: evaluation and treatment for minor illnesses and injuries, referral and follow up for serious illnesses and emergencies, onsite care and consultation, referral to a physician, and follow up care for pregnancy or chronic diseases and disorders as well as emotional or mental problems. Services also shall include referral care for drug and alcohol abuse and sexually transmitted diseases, sports and employment physicals, immunizations, and, in addition, effective preventive services aimed at delaying early sexual involvement and aimed at pregnancy, acquired immune deficiency syndrome, sexually transmitted diseases, and destructive lifestyle conditions, such as alcohol and drug abuse. Moneys for this program shall be used to fund three teams, each consisting of one half-time psychologist, one full-time nurse, and one full-time social worker. Each team shall provide student support services to an elementary school, middle school, and high school that are a part of one feeder school system and shall coordinate all activities with the school administrator and guidance counselor at each school. A program which places all three teams in middle schools or high schools may also be proposed.

- c. **Full service schools:** The full-service schools shall integrate the services of the Department of Health that are critical to the continuity-of-care process. The department shall provide services to students on the school grounds. Department personnel shall provide their specialized services as an extension of the educational environment. Such services may include nutritional services, medical services, aid to dependent children, parenting skills, counseling for abused children, and education for the student's parents or guardians.

Funding may also be available for any other program that is comparable to a program described in this subsection but is designed to meet the particular needs of the community.

4. Each school district or school program that is funded through the provisions of this section shall provide a mechanism through which a parent may, by written request, exempt a child from all or certain services provided by a school health services program described in subsection (3).
5. The services provided by a comprehensive school health program must focus attention on promoting the health of students, reducing risk-taking behavior and reducing teen pregnancy. Services provided under this section are in addition to the services provided under s. 381.0056 and are intended to supplement, rather than supplant, those services.

Florida Statutes 2010 Certified Nursing Assistants (CNA)

To date there is speculation about changes to come in the CNA profession in Florida and no updates have been made since 2010. At present the statute reads as follows:

Profiles

In 1997, the Florida Legislature passed a law requiring the Department of Health to compile profiles on health care professionals licensed in Florida including all levels of nursing. The law outlines required information, reporting procedures, and requirements for updating profile information. All information is verified by the DOH at the time of initial licensure and additional information is self-reported. Verification includes the name of the school or training program attended, dates of attendance, date of graduation, descriptions of all graduate education and other information given by the primary source. Profiles are required to contain the following information and can be reviewed by the public online:

- Education and training, including other health-related degrees, professional and post graduate training specialty.
- Current mailing address for the place of practice. Note: Under Florida Law, email addresses are public records. Nurses that do not want their email address released in response to a public records request are not mandated to report the address. However, if the email has been previously used when contacting the Florida DOH, it can be disclosed. If the nurse has not disclosed their email address to the Florida DOH, but wishes to have it on file with DOH but not for public record, they may convey it by phone or written mail.
- Staff privileges and faculty appointments.
- Legal actions taken against the practitioner.
- Final disciplinary action taken against the practitioner by the BON.

- Optional information may include committees/memberships, professional or community service awards, and publications the practitioner has authored.
- Indicates whether or not the practitioner participates in the Medicaid program.
- A list of licensed hospitals, Health Maintenance Organizations, Prepaid Health Clinics, and Ambulatory Surgical Centers that the practitioner holds staff privileges.
- A list of states in which the practitioner received a professional license and the license type.
- The year the practitioner received a license in any and all jurisdiction.
- Criminal Offenses: Description of any criminal offenses of which the practitioner has been found guilty, regardless of whether adjudication of guilt was withheld, or pled guilty or nolo contendere.
- Final disciplinary action taken by a specialty board within the previous 10 years.
- Final disciplinary action taken by a licensing agency within the previous 10 years.
- Final disciplinary action taken by a health maintenance organization, pre-paid health clinic, nursing home, out-of-state hospital or out-of-state ambulatory surgical center within the previous 10 years.
- Publications authored by the practitioner and published in peer-reviewed medical or nursing literature. Profile includes publication title and the year it was published.
- Languages, other than English, that the practitioner uses to communicate with patients or any translation services available to patients at the practitioner's primary place of practice.
- National, state, local, county, or professional affiliations.

HIPAA law and the nursing profession

The Health Insurance Portability and Accountability Act (HIPAA) became law in 1996 and addresses procedures for obtaining, storing, transmitting and sharing patient information to ensure privacy and confidentiality. The HIPAA law is extensive and detailed and this course provides only an outline of some situations nurses frequently encounter. Resources are provided at the end of the course for review of the entire HIPAA law. It is the responsibility of all nurses to understand all HIPAA laws to protect the patient while developing communication and trust with the patient and their families. The transmission of information electronically requires specific procedures to safeguard protected health information (PHI) as identified by HIPAA. All nurses are required to obtain training on HIPAA and stay current on changes that occur as technology improves the way PHI is stored, transmitted and shared. Information considered as PHI includes the following:

- The individual's past, present or future physical or mental health condition.
- The provision of health care to the individual.
- The past, present, or future payment for the provision of health care to the individual.
- Identification of the individual or information for which there is a reasonable basis to believe can be used to identify the individual.
- Individually identifiable health information includes many common identifiers such as name, address, birth date, and Social Security Number.

PHI can only be shared with the patient or their legal representatives and all patients must be given a written copy of the Notice of Privacy based on HIPAA guidelines for the treating organization. Parents of minor children are usually the legal representative, but sometimes that is not the case, so the nurse must be sure to determine the legal

representative/guardian. This is particularly important for school nurses who may have contact with numerous family members. There are exceptions to the HIPAA Privacy Rule that include, but are not limited to, the following:

- Reporting of victims of abuse, neglect, or domestic violence.
- As required by law, including court orders, court ordered warrants, subpoenas, and administrative requests.
- To identify or locate a suspect, fugitive, material witness, or missing person.
- In response to a law enforcement official's request for information about a victim or suspected victim of a crime.
- To alert law enforcement of a person's death, if the covered entity suspects that criminal activity caused the death.
- When a covered entity believes that protected health information is evidence of a crime that occurred on its premises.
- By a covered healthcare provider in a medical emergency, not occurring on its premises, when necessary to inform law enforcement about the commission and nature of a crime, the location of the crime or crime victims, and the perpetrator of the crime.
- Covered entities may disclose protected health information to funeral directors as needed, and coroners or medical examiners to identify the deceased person, determine the cause of death, and to perform other functions authorized by the law.
- PHI may be disclosed following organizational policies for public safety to law enforcement agents.

The following guidelines can help nurses avoid potential HIPAA violations:

- Never share computer passwords for files with PHI and change passwords often.

- Always secure medical records in protected locked storage areas.
- Always shred paper items containing PHI.
- Never leave PHI information on a desk or other unsecured area.
- Log out and shut down computers with PHI.
- Use encryption or de-identification of PHI as directed by HIPAA and follow all electronic security protocol.
- Contact the employing agency's technology specialist when deleting or disposing of files or electronic equipment so PHI cannot be retrieved.
- Secure mobile electronic devices.
- Do not use fax machines that are in a public area and be sure those receiving fax material do the same.
- Never discuss PHI within earshot of waiting rooms or reception areas.
- Never discuss PHI in public places or with family or friends.
- Study the entire HIPAA Privacy Rule, complete in-service training and ask questions if in doubt.

A final note

The Nightingale Pledge

The Nightingale Pledge was based on the Hippocratic Oath and written by Lystra Gretter, who was a nursing instructor at the Harper Hospital in Detroit, Michigan. The pledge was first used by the graduating nursing class from that hospital in the spring of 1893 and is often used today. Many of the concepts from the pledge are reflected in various codes of ethics and there are elements of HIPAA in the Pledge. Some believe it should be changed and modernized to address the challenges of nursing today. It is included here because the pledge has been used to set legal precedents in cases involving nursing law.

I solemnly pledge myself before God and in the presence of this assembly, to pass my life in purity and to practice my profession faithfully. I will abstain from whatever is deleterious and mischievous, and will not take or knowingly administer any harmful drug. I will do all in my power to maintain and elevate the standard of my profession, and will hold in confidence all personal matters committed to my keeping and all family affairs coming to my knowledge in the practice of my calling. With loyalty will I endeavor to aid the physician, in his work, and devote myself to the welfare of those committed to my care.

Future additions and updates

In response to mass public health issues resulting from hurricanes, fires, tornados and other natural disasters that occur in Florida, and manmade disasters that are occurring across the country, there have been changes to Florida public health statutes. These statutes govern all agencies that might care for patients during these disasters including nursing homes, clinics, hospitals, care facilities and make-shift emergency shelters or triage units that may address emergency

medical trauma. The statutes are not currently written into the Nursing Practice Act Statutes but impact nurses because they give healthcare agencies the authority to appoint disaster nursing teams that can be called to work during disasters and provide funds to pay them. Nurses in Florida should know their employer's policies and procedures that may be imposed during a natural or manmade disaster.

Resources

- Department of Health and Human Services: <http://www.hhs.gov>. Details all federal health policy including ACA.
- Florida Board of Nursing: [ww.floridasnursing.gov](http://www.floridasnursing.gov)
- Florida Department of Health: http://www.doh.state.fl.us/mqa/nursing/info_practiceAct.pdf
- HIPAA: <http://www.hhs.gov/ocr/privacy/hipaa/understanding/index.html>
- Florida Department of Health Nurse Practice Act. <http://www.doh.state.fl.us/mqa/nursing/info_practiceAct.pdf>. Accessed July 6, 2013.
- Florida Senate: 2012 Statutes. <<http://www.flsenate.gov/Laws/Statutes/2012/Chapter464/All/>>. Accessed July 7, 2013.
- U.S. Department of Health and Human Services, Office for Civil Rights (2003). "Standards for Privacy of Individually Identifiable Health Information." Office for Civil Rights, 45 CFR 164.514(b)(2)(i). <<http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/introduction.html>>. Accessed July 6, 2013.
- U.S. Department of Health and Human Services, "Understanding Health Information Privacy." <<http://www.hhs.gov/ocr/privacy/hipaa/understanding/index.html>>. Accessed July 6, 2013.

FLORIDA LAWS FOR NURSES

Final Examination Questions

Choose True or False for questions 1 through 10 and mark them on the answer online at Nursing.EliteCME.com.

1. The Nurse Licensure Compact is NOT considered to be law.
 - True
 - False
2. The Nurse Practice Act was passed by the legislature of each state to ensure patient safety and standardize the scope and sequence of the profession at the RN level.
 - True
 - False
3. The sole legislative purpose in enacting this part is to ensure that every nurse practicing in this state meets minimum requirements for safe practice.
 - True
 - False
4. The advanced registered nurse practitioner may under no circumstances perform acts of medical diagnosis and treatment, prescription, or operation with or without approval from their supervisors.
 - True
 - False
5. "Clinical simulation" means a strategy used to replicate clinical practice with patients.
 - True
 - False
6. Practice of professional nursing requires specialized knowledge, judgment, and nursing skill based upon psychological, biological, physical, and social sciences.
 - True
 - False
7. Using or attempting to use a license or certificate which has been suspended or revoked is a misdemeanor.
 - True
 - False
8. One of the primary goals for the Florida Nursing Center is to develop a strategic statewide plan for nursing manpower.
 - True
 - False
9. Registered nurse first assistants are nurses who meet the qualifications of this section as "assistants at surgery" by physicians and hospitals to provide quality, cost-effective surgical intervention to health care recipients in the state.
 - True
 - False
10. PHI includes the individual's past, present or future physical or mental health condition.
 - True
 - False