Introduction

Why do we need another continuing education requirement? Perhaps a step back in time will help answer this question. In 1975, Dr. Helen Creighton, RN, JD, penned a little book called, “Law Every Nurse Should Know.” (Creighton, 1975) Though she was born in 1914, Dr. Creighton was quite an insightful nurse attorney. A couple of quotes from the book help us understand the answer to why we need another continuing education requirement today. Dr. Creighton said, “The nurse’s right to practice as a practical nurse or as a registered professional nurse with or without specialization, means more to the nurse who understands the purpose and problems of licensure.” And probably her most profound statement, “The nurse who knows her contractual rights, duties and remedies is likely to make better and breach fewer contracts.”

According to Dr. Creighton, the most important achievement of nursing leaders who came before us was the creation of our professional license. And today, as Dr. Creighton stated many decades before, “The primary purpose of a licensing law for the control of the practice of nursing, is to protect the health of the people by establishing minimum standards which qualified practitioners must meet.”

All nurses should be familiar with the laws and rules that govern their practice, but reality is that most of us do not look at these documents unless we are in trouble. Nurses are being asked
to perform more and different interventions and actions than ever before, and often without clear understanding of their scope of practice. For example, if you worked for a plastic surgeon who asked you to inject Botox, would you know how to respond? If you were asked to administer propofol for conscious sedation in an outpatient surgery center, would you know what to do? The state of Florida, and several other states, now requires that nurses complete a course in laws and rules as part of the continuing education requirement for license renewal. The Florida Board of Nursing (referred to in this course as the Board) established minimal content criteria for the laws and rules course which went into effect for nurses renewing licenses in 2015. The course is now a requirement for biennial renewal for all registered nurses and licensed practical nurses.

The Governing Laws and Rules

First, we will review a few definitions to help understand the web of legal terms used by state legislation. Statutes are basically a collection of laws. They are a permanent collection of state laws organized by subject area into a code made up of titles, chapters, parts, and sections. The Florida statutes are updated annually by laws that create, amend, transfer, or repeal statutory material. This fact may help explain why the Board requires this Florida Laws and Rules course with every biennial renewal cycle. The Florida Board of Nursing and the Florida Nurses Association do a good job of informing nurses of any significant changes to our statutes; however, if a nurse has a nursing practice question, it would be wise to go directly to the latest statutes and investigate.

Administrative rules are an agency's statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirement of an agency. In nursing, the "agency" is the Florida Department of Health, and our Division is the
Board of Nursing. The Board uses administrative rules to help implement and interpret the laws that affect our practice. A compilation of all Florida administrative rules is known as the Florida Administrative Code, which is updated weekly online. Now, we will look at the Administrative Rules that affect our nursing practice.

Florida Administrative Code Title 64B9

Administrative Code Title 64B9 contains rules established by the Board to assist with implementation of the statutes. Among other things, this administrative rule provides the standards for and approval of nursing education programs and certified nursing assistant training programs. It also describes the requirements for nursing examination preparatory courses. This is especially important for new nurses preparing to take a licensing exam for the first time. It is reassuring to know that these preparatory courses must be approved by the Board and must follow an established curriculum.

If you are curious about where you can find the Florida laws that describe and outline your continuing education requirements for license renewal, go to Administrative Code Title 64B9-5. This document contains all of our continuing education requirements for license renewal, including the requirement for this course. Unlike some of the statutes, this administrative rule document is easy to read, designed in outline form, and provides us with everything we need to know about our continuing education requirements.

Administrative Code 64B9-5.002 lists the specific continuing education courses required for nursing license renewal. Nurses must complete 24 hours of continuing education for each biennial renewal. Included in the 24 hours every biennium, is two hours in prevention of medical errors and two hours in Florida Laws and Rules. A one hour course in HIV/AIDS is required for
the first biennial renewal only; and a course in domestic violence is required every third biennium. Beginning August 1, 2017, a two hour course in recognizing impairment in the workplace will be required every other biennium. It is a good idea for nurses to download this document and keep it handy as a reference. As you can see, because of the different frequencies of requirements, it can be difficult to keep up with the different continuing education requirements.

In addition to describing our continuing education requirements, this administrative code provides other important licensing information such as delinquent license renewal. If a Florida nurse does not fulfill renewal requirements by the biennial renewal date, the license automatically reverts to delinquent status. In order to reinstate the license, registered nurses and license practical nurses must complete all continuing education requirements and pay a $55.00 delinquent fee.

Administrative Code 64B9 also provides a good deal of valuable practice information specifically for LPNs. In 64B9-12, the document describes the LPN roles in administration of IV therapy, and lists specific aspects of IV therapy that are outside the scope of practice of the LPN. In 64B9-16, the LPN can find requirements and regulations for nursing home supervision.

Lastly, but importantly, Code 64B9-8 provides us with the Board’s procedures for hearing and dealing with complaints and violations that are discussed below in the Nurse Practice Act. The Boards actions can range from a simple citation, to suspension, to revocation of the nursing license. This section of Code 64B9 is very extensive, and includes specific fines and penalties for multiple violations. OK, enough about administrative rules, we will now take a look at the statutes from which these rules were generated.
Florida Statutes, Title XXXII, Chapters 456, 458, 459, 464, 466, and 467.

Florida Statutes are divided into titles, chapters and parts. Title XXXII is "Regulation of Professions and Occupations." This is a huge document, so don't accidentally hit "print," or you will not only print information about nursing, but also about pharmacy, optometry, engineering, accounting, real estate, barbering and pest control! Basically this title covers any profession and occupation that is licensed through the state of Florida. To obtain the most benefit from review of Title XXXII, we will first go to Chapter 464, titled "Nursing." This is probably the most significant of the statutes that governs the practice of nursing. Chapter 464 contains Part I, the Nurse Practice Act (NPA), and Part II, the CNA Practice Act. Though we will only discuss the NPA in this presentation, it would be wise for nurses who supervise CNAs to review the CNA Practice Act.

The statute tells us that the sole legislative purpose of the NPA is to ensure that every nurse practicing in Florida meets minimum requirements for safe practice. Additionally, 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 the state. It is important to keep in mind that statutes governing our practice were developed to protect the public and our patients - not the nurse. However, as Dr. Creighton discussed, nurses who know their contractual rights and the parameters of their practice, are much less likely to breach those contracts. In other words, if we know the rules governing our practice, we are much less likely to break them.

The history of nurse practice acts goes back to the 1890s! According to Corinne Dorsey and Joyce Schowalter, (Dorsey & Schowalter, 2008) the first law enacted to regulate nursing was in Cape Town, South Africa, in 1891. New Zealand enacted a similar law in 1901. The first state in the U.S. to enact a nurse practice act was North Carolina in 1903. What makes the
achievement of North Carolina and other early states so remarkable is that the enactments followed a decade of efforts by a dedicated group of women nurses who, by the way, were not allowed to vote! In 1913, Florida enacted its first Nurse Practice Act. By that time, thirty-six states and the District of Columbia had Nurse Practice Acts in effect.

The Florida NPA is an extensive document that relates to both registered nurses and licensed practical nurses. It contains about forty plus pages of single-spaced lines, in outline format. It is not particularly easy to navigate or read. Obviously not all sections will be discussed in this presentation, but we will discuss the more significant sections that deal with our standards of practice. First, we will examine what guidance the NPA does provide, and then we will examine what it does NOT provide.

First and foremost, the NPA defines and differentiates the levels of nursing in Florida. It establishes the roles and responsibilities for RNs, LPNs, CNSs, and ARNPs and very briefly defines the scope of practice of each. For example, the NPA describes practical nursing as the performance of selected acts in the care of the ill, injured, or infirm, and the promotion of wellness and health maintenance under the direction of an RN, a MD, DO, or Dentist. The scope of practice of professional nursing is described in a little more detail than practical nursing; however, the description is still very general. The descriptions include the observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; administration of medications and treatments as prescribed or authorized by a licensed practitioner; and the supervision and teaching of other personnel in the theory and performance of the above listed acts.

Certified Registered Nurse Anesthetists (CRNAs) and Certified Nurse Midwives (CNMs) are included in the section that relates to ARNPs. The NPA goes into greater detail regarding the
certification process and scope of practice of these specialists; however, there are additional statutes that govern their practice. For example, midwives have their own Chapter in Title XXXII. This is Chapter 467, the "Midwifery Practice Act." Additionally, Chapter 458, which provides regulation for medical practice, Chapter 459, which provides regulation for osteopathic medicine, and Chapter 466, which provides regulation for dentistry, all contain information on roles, responsibilities, and standards of care for ARNPs. So not only do ARNPs have to be familiar with nursing statutes, but they must also be familiar with statutes relating to the practice specialty. For example, an ARNP working in a pain management clinic, supervised by an MD, must adhere to the requirements established by Chapter 458 in addition to those established in Chapter 464. An CRNA providing anesthesia in a dental clinic must adhere to the requirements established by Chapter 466, in addition to those established in Chapter 464.

As you can see, the NPA covers a great deal of material. It describes the different types of licensing such as examination and endorsement, license renewal requirements (those that are presented in the Administrative Rule discussed above), and provides details about the approval process for nursing education programs.

You may have noticed there are some specific topics that are not covered in the Florida NPA. If you search for specific information about medications you may or may not administer, you will not find that information in the NPA. A good example of this situation occurred in 2002. A group of RNs working in a stand-alone surgical center petitioned the Board for a declaratory statement regarding patient monitoring and administration of propofol. The center's anesthesiologist had ordered the nurses to administer the medication and monitor the patients. The nurses believed it was outside their scope of practice; however, they could find no information in the NPA to support their beliefs.
The Board conducted research of Chapter 464, and determined that the NPA description of the role of professional nurses did not answer the question. The section of the NPA that related to CRNAs discussed preanesthetic medications in general, but roles and standards of care were based on protocols to provide guidance. The Board then determined that advanced practice acts could not be performed by RNs who were not certified as ARNPs. Based on these findings, the Board sided with the RNs, and found that it was not within the scope of practice of an RN who is not a CRNA to administer propofol.

An example of procedures that required a declaratory statement by the Board of Nursing, involves the administration of Botox by nurses. Regulations regarding Botox and liposuction vary from state to state, and you will not find the word Botox if you search the Florida NPA. You also will not find the word Botox in Chapter 458, Medical Practice. However, you will find a description of the ARNP role in aesthetics and skin care in this Chapter, so the Board has declared that RNs and LPNs may not administer Botox; however ARNPs may do so.

Because the NPA was developed to protect the public, the document contains a lengthy section on disciplinary actions. Some violations of the laws are obvious. For example, persons who are not licensed or certified may not use the abbreviations RN, LPN, CNS, CRNA, CNM, or ARNP. These actions mislead the public and constitute misdemeanors of the first degree, which may be punishable by a term of imprisonment not exceeding one year. Other more serious violations such as using or attempting to use a suspended license or knowingly employing unlicensed persons in the practice of nursing constitute felony of the third degree. They may be punishable by a term of imprisonment not exceeding five years.

Additional obvious violations that may result in denial of a license or disciplinary license include sexual misconduct in the practice of nursing, having a license revoked, suspended or
denied by another state, and being convicted of a crime which directly relates to the practice of nursing. Nursing license may also be denied to persons who have been found guilty of theft, fraudulent practices, lewdness and indecent exposure, assault and battery, child abuse, and acts that constitute domestic violence. There are many other obvious violations that may result in denial or revocation of a nursing license, such as working while impaired by alcohol, drugs, narcotics, or chemicals, and attempting to engage in possession, sale, or distribution of controlled substances.

It is the less obvious violations that should concern the nurse who is not familiar with the laws and rules that govern nursing practice. For example, the nurse who fails to report another person known to be in violation of the statutes may be subject to disciplinary action. Occasionally nurses are unaware they have violated the statutes until they are notified that a complaint has been filed with the Board. Most often these complaints are for failure to meet minimal standards of acceptable and prevailing nursing practice. This may also include engaging in nursing acts for which the nurse was not qualified by training or experience. As discussed above, the Board's procedures for dealing with these violations is discussed in detail in Administrative Code 64B9-8. As nurses, we must be cognizant of our scope of practice, and when in doubt about performance of a procedure or act, it is imperative that we know where and how to search for guidance.

There is one more statute that nurses practicing in Florida must be familiar with, and that is Chapter 456, Health Professions and Occupations General Provisions. This Chapter is long and covers quite a wide variety of topics, including such things as penalty for theft or reproduction of an examination, and Hepatitis B or HIV carriers. It also covers some of the same topics on licensing provisions and disciplinary action that are discussed in the Chapter 464, the
NPA. Chapter 456 provides detailed descriptions of procedures that may be required by the Board when considering disciplinary action or reinstatement of licenses. Nurses who are confronted with possibly Board disciplinary actions, or who are seeking reinstatement of a previously revoked nursing license, are well advised to review Chapter 456 to ensure knowledge of the proceedings and of their rights. Lastly, this Chapter describes the licensing process in Florida, which includes background checks and fingerprints, as well as additional information for certification of ARNPs.

Conclusion

It is the individual responsibility of every registered nurse and licensed practical nurse in Florida to adhere to the laws and rules governing the practice of nursing. The goal of this course was to provide the nurse with basic knowledge of these laws and rules and with information needed to promote practice in compliance with the law. It is through this compliance that nurses can best ensure the safety of patients placed in their care. It is the responsibility of the Florida Board of Nursing to enforce the laws and rules and conduct disciplinary action when indicated. The Board is responsive to your questions, and may be contacted at info@floridanursing.gov or visit the Florida Board of Nursing website at http://floridasnursing.gov.
Resource Guide

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Your Behavioral Objectives

- Describe general content of Title 64B9 of the Florida Administrative Code, and identify license renewal requirements for registered nurses and licensed practical nurses practicing in Florida.

- Describe the legislative purpose and provisions of the Health Professions and Occupations Statute (Title XXXII) and Chapters 456, 458, 459, 466 and 467 that affect nursing practice.

- Discuss provisions of Title XXXII, Chapter 464, Part 1, the Florida Nurse Practice Act (NPA), and give examples of information included and not included in the NPA.

- Discuss the Florida Board of Nursing disciplinary process as it relates to nursing practice.
INTRODUCTION

- Why another continuing education requirement?
  - Words of wisdom from Dr. Helen Creighton, RN, JD
    - “Nurses who know their contractual right, duties and remedies are likely to make better and breach fewer contracts”
  - Nurses should be aware of laws and rules that govern practice; reality is – we aren’t
Definitions Of Our Laws And Rules

- **Statutes (Laws):** A permanent collection of state laws organized by subject area into a code made up of titles, chapters, parts, and sections. Florida Statutes are updated annually by laws that create, amend, transfer, or repeal statutory material.

- **Administrative Rule:** An agency’s statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency.

- **Administrative Rules/Codes:** The *online* Florida Administrative Code (FAC) is the official compilation of administrative rules for the state of Florida. The Department of State oversees the publishing of the FAC and updates it weekly.
The Laws and Rules that Govern Us: Administrative Codes
https://www.flrules.org/default.asp

Significant Titles for Nurses:

- **Title 64B9-5**
  - Continuing Education

- **Title 64B-9**
  - Licensure

- **Title 64B9-15**
  - Certified Nursing Assistant
Florida Administrative Code Title 64B9

Examples of Provisions of Title 64B9

- Provides Standards of Nursing Education Programs and CNA Training Programs
- Describes requirements for nursing exam prep courses
- Lists and explains continuing education requirements
- Provides information regarding delinquent license renewal
- Describes LPN roles in IV therapy, and nursing home supervision
- Florida Board of Nursing management of complaints and violations of laws and rules
Florida Administrative Code Title 64B9
Title 64B9-5 Continuing Education Requirements

- 24 hours continuing education for each biennial renewal
- 2 hours Prevention of Medical Errors every biennial renewal
- 2 hours Laws and Rules every biennial renewal
- One course HIV/AIDS required for first biennial renewal only
- Course in Domestic Violence required every third biennium
- Beginning August 1, 2017, new requirement for 2 hours Recognizing Impairment in Workplace every biennial renewal
The Laws and Rules that Govern Us:
Title XXXII
Regulation of Professions and Occupations
http://www.leg.state.fl.us/statutes/

• Significant Chapters for Nurses:

**Chapter 464**
Parts I & II
• Nurse Practice Act
• CNA Practice Act

**Chapter 456**
• Health Professions & Occupations
• General Provisions

**Chapter 458**
• Medical Practice

**Chapter 459**
• Osteopathic Medicine
Florida Nurse Practice Act
Title XXXII, Chapter 464

*What information the Nurse Practice Act DOES provide:*

- Definition of and Certification of CNS and ARNPs
- Licensing by Examination and by Endorsement
- License Renewal Information
- Restriction; penalties
- Violations
- Sexual Misconduct in the Practice of Nursing
- Approval of Nursing Education Programs
- Exceptions for Military nurses and nurse spouses of military
- Disciplinary Actions
Examples of specific information the Nurse Practice Act DOES NOT Provide:

- What specific medications may an RN and/or an LPN Administer?
- What specific procedures may an RN and/or an LPN perform?
- Example - May an RN and/or an LPN perform liposuction or administer Botox?
- Numerous other questions that come up in the practice of nursing
Medical Practice
Title XXXII, 458 & 459

Yes, this Title is Medical Practice, and Osteopathic Medicine, but FYI:

- Includes Pain Management Clinic Requirements for physical examination - ARNP

- ARNP Role as supervised by with a physician

- Joint Committee of Board of Nursing and Board of Medicine determine standards medical acts approved by ARNPs
Examples of information this statute provides:

- General Licensing Information, i.e., examinations, citizenship requirements, training, etc.
- Education requirements such as domestic violence
- Information regarding Hepatitis B or HIV carriers
- Treatment for impaired practitioners
- Disciplinary Actions/Criminal Proceedings
- Controlled substance prescribing
IMPORTANT STATUES AND RULES

- Title XXXII, Chapter 464 – Nurse Practice Act
- Title XXXII, Chapter 456 – Health Professions and Occupations General Provisions
- Title XXXII, Chapter 458 – Medical Practice
- Administrative Code 64B9 – Nursing