

Laws and Rules for Florida Nurses

HOW TO RECEIVE CREDIT

- Read the enclosed course.
- Complete the questions at the end of the course.
- Return your completed Evaluation to NetCE by mail or fax, or complete online at www.NetCE.com. (If you are a Florida nurse, please return the included Answer Sheet/Evaluation.) Your postmark or facsimile date will be used as your completion date.
- Receive your Certificate(s) of Completion by mail, fax, or email.

Faculty

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Faculty Disclosure

Contributing faculty, Jane C. Norman, RN, MSN, CNE, PhD, has disclosed no relevant financial relationship with any product manufacturer or service provider mentioned.

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The division planner and director have disclosed no relevant financial relationship with any product manufacturer or service provider mentioned.

Audience

This course is designed for all nurses licensed in Florida.

Accreditations & Approvals



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Designations of Credit

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NetCE designates this continuing education activity for 2.4 hours for Alabama nurses.

AACN Synergy CERP Category B.

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Special Approvals

This course fulfills the Florida requirement for 2 hours of education on Laws and Rules.

About the Sponsor

The purpose of NetCE is to provide challenging curricula to assist healthcare professionals to raise their levels of expertise while fulfilling their continuing education requirements, thereby improving the quality of healthcare.

Our contributing faculty members have taken care to ensure that the information and recommendations are accurate and compatible with the standards generally accepted at the time of publication. The publisher disclaims any liability, loss or damage incurred as a consequence, directly or indirectly, of the use and application of any of the contents. Participants are cautioned about the potential risk of using limited knowledge when integrating new techniques into practice.

Disclosure Statement

It is the policy of NetCE not to accept commercial support. Furthermore, commercial interests are prohibited from distributing or providing access to this activity to learners.

Course Objective

The purpose of this course is to provide basic knowledge of the laws and rules governing the practice of nursing in Florida in order to increase compliance and improve patient care. Florida nurses are legally obligated to be aware of standards that govern professional accountability. Information contained in this course is not intended to be used in lieu of lawful guidelines, but as a learning tool that increases the understanding of some regulations as they apply to nurses who are licensed within the state of Florida.

Learning Objectives

Upon completion of this course, you should be able to:

1. Describe the legislative purpose for the Nurse Practice Act.
2. Identify specific laws and rules related to the practice of nursing and nursing assisting.
3. Outline the pertinent levels of nursing practice in the State and the general scope of practice of each.
4. Discuss the general requirements for continuing licensure in the State.
5. Differentiate between ethical and legal practice.
6. Discuss the process for discipline related to nursing practice.
7. Create a professional plan for career maintenance and development within the limits of the law.

INTRODUCTION

Nursing practice acts have a long history in the United States, with the first standards being enacted in the early 1900s. In Florida, a period of major growth and expansion during this period resulted in an increase in the number of hospitals and training schools, which spurred the formation of professional nurses' associations and an interest in establishing standards for the delivery of nursing care [1]. The first practice act passed the Florida Legislature and was signed into law on June 7, 1913 [1].

The Florida Nurse Practice Act was legislated to safeguard the public, and the purpose of the Act is to ensure that minimum safety requirements are met by every nurse practicing in the state. The Nurse Practice Act, Chapter 464 of the Florida Statutes, includes laws governing scope of practice, licensure and certification, and violations and penalties [3]. Chapter 464 established the Florida Board of Nursing as an authority to adopt rules, develop standards for nursing programs, and discipline nurses who violate regulations [2]. Nurses who fall below Florida's required minimum competency or who present a danger to patients, coworkers, or others are prohibited from working in the state.

In addition to Chapter 464, nurses in Florida are regulated by Chapter 456, which includes general provisions for all health professions, and Title 64B9 of the Florida Administrative Code. Together, these laws and rules form the basis for the legal practice of nursing and the regulation of nursing by the state of Florida.

This course fulfills the education requirement on the laws and rules that govern the practice of nursing in Florida for all levels of nursing, including registered nurses (RNs), licensed practical nurses (LPNs), and advanced practice registered nurses (APRNs) [3]. While this course will provide an overview of the pertinent sections of the laws and rules, all nurses are encouraged to review them in their entirety in order to ensure compliance.

STANDARDS OF PRACTICE

The basic standards of competent practice directly impact how all nurses in Florida provide care. Not only must a nurse possess the knowledge of lawful and current care standards, but the knowledge must be demonstrated through consistent practice and intervention to prevent unauthorized, inappropriate, erroneous, illegal, contraindicated, or intentional nonperformance of care.

The Nurse Practice Act governs the practice of RNs, LPNs, and APRNs. LPNs are those persons licensed to practice practical nursing, while RNs and APRNs are licensed to practice professional nursing, with various levels of specialization [3]. Both professional and practical nurses are responsible and accountable for making decisions that are based upon their educational preparation and experience in nursing.

According to the Nurse Practice Act, the practice of practical nursing means [3]:

The performance of selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm; 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; and the teaching of general principles of health and wellness to the public and to students other than nursing students. A practical nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.

The practice of professional nursing is defined by the Act as “the performance of those acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences” [3]. The Florida Statutes further define the scope of practice of professional nursing as [3]:

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

ADVANCED PRACTICE REGISTERED NURSES

In addition to the practice of professional nursing, APRNs are certified in advanced or specialized nursing practice. This umbrella term includes certified nurse midwives, certified nurse practitioners, certified registered nurse anesthetists, clinical nurse specialists, and psychiatric nurses [3]. In accordance with the Act, APRNs may perform acts of nursing diagnosis and treatment of alterations of the health status as well as medical diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol [3]. Specifically, within the established framework, an APRN may [3]:

- Prescribe, dispense, administer, or order any drug; however, an APRN may prescribe or dispense a controlled substance only if she or he has graduated from a program leading to a Master’s or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills
- Initiate appropriate therapies for certain conditions
- Perform additional functions as may be determined by rule
- Order diagnostic tests and physical and occupational therapy
- Order any medication for administration to a patient in a facility as defined by rule

All APRNs are required to obtain and maintain malpractice insurance or demonstrate proof of financial responsibility prior to licensure, with some exceptions [10]. Proof of compliance with this rule or exemption must be provided to the Board office within 60 days of certification and at each biennial renewal.

Rule 64B9-4.011 states, “APRNs whose protocols permit them to dispense medications...must register with the Board of Nursing by submitting a completed Dispensing Application for Advanced Practice Registered Nurse (APRN), form number DH-MQA 1185” [10]. The APRN dispensing practitioner must comply with all applicable state and federal laws and regulations.

CONTINUING LICENSURE IN FLORIDA

The Florida Board of Nursing is responsible for adopting rules establishing the procedure for the biennial renewal of nursing licenses. All Florida nurses are required to renew their licenses and complete mandated continuing education every two years. The Act stipulates that up to 30 hours of continuing education may be required each biennium [3]. Initial licenses that were issued for less than 24 months are required to complete one hour for each month for which the license was valid. As part of this requirement, all licensees must complete an approved two-hour course on the prevention of medical errors and a two-hour course on the laws and rules that govern the practice of nursing in Florida. Starting in 2019, licensees must also complete a two-hour course on human trafficking every renewal period. Beginning with 2018 renewals, a two-hour course on recognition of impairment in the workplace must be completed every other biennium. Every third renewal (or every six years), licensees must successfully complete two hours of continuing education on domestic violence in addition to the 24-hour requirement. A one-hour course on HIV/AIDS must be completed prior to a licensee's first renewal. In addition to these requirements, beginning in 2017, all APRNs must complete at least three hours of continuing education on the safe and effective prescription of controlled substances for each biennial renewal. Beginning with 2021 renewals, each biennial, APRNs who engage in autonomous practice must complete at least 10 hours of continuing education (in addition to other mandated continuing education) appropriate to this level of care as approved by the Board [3].

Completion of all mandated continuing education must be reported to the Board. Failure to document compliance with the continuing education requirements or furnishing false or misleading information regarding compliance is grounds for disciplinary action.

A nurse may maintain his or her license in inactive status if there is no intent to practice nursing in the upcoming biennium. However, this requires that the licensee apply for inactive status and renew the license as inactive every two years; completion of continuing education is not required for these renewals. A license to practice nursing that is not renewed at the end of the biennium shall automatically revert to delinquent status [10].

In accordance with Rule 64B9-1.013 of the Florida Administrative Code, all licensed nurses must maintain on file with the Board of Nursing the current address at which any notice required by law may be served [10]. If a nurse moves, even out of state, he or she must notify the Board in writing of the new address within 60 days. In addition, all licensed nurses must alert the Board to their current place of practice. Place of practice is defined as one of the following [10]:

- Acute care facility
- Long-term care facility
- Rehabilitation facility
- Clinic
- Physician's office
- Home health care agency
- Educational institution
- Office of independent nursing practice
- Correctional facility
- Mental health facility
- Occupational health facility
- Managed health care organization or insurance company
- Community health facility
- Other

If a nurse wishes to activate an inactive license, he or she may do so by applying to the Department and paying a reactivation fee. As part of the application process, the licensee must disclose convictions or findings of guilt and/or disciplinary action(s) in or out of state [10]. In addition, the nurse must provide proof of completion of all continuing education for all biennial licensure periods for which the individual was inactive.

Completion of a Board-approved nursing refresher course is required to activate a license that has been inactive for five years or more if the licensee does not hold an active license in good standing in another state [10]. The refresher course must include at least 80 hours of classroom instruction and 96 hours of clinical experience in medical/surgical nursing and any specialty area of practice of the licensee.

ETHICAL AND LEGAL ISSUES IN NURSING PRACTICE

In addition to their legal obligations, nurses have ethical obligations to their patients. The practice of nursing is primarily one of caring, and the ethical theories for nursing are often referred to as “the ethics of caring.” Nurses are expected to address both ethical and legal issues in their practice, which can be complex. As medical advancements and new technology progress, these must be incorporated into established ethical standards. The American Nurses Association has established the Code of Ethics for Nurses, which is intended to act as “a guide for nurses to use in ethical analysis and decision-making” [5]. The full text of this Code is available at <https://www.nursingworld.org/practice-policy/nursing-excellence/ethics/code-of-ethics-for-nurses>.

Major ethical issues that may arise in the practice of nursing are related to the provision of patient-centered care, confidentiality, advocacy, delegation, self-care, and supporting colleagues and the profession.

There are also a variety of legal issues that affect the provision of nursing care and maintenance of a nursing license. It is important to note that, although possibly related, the laws governing nursing practice are different from the ethical framework(s) that nurses use to guide decision making. Laws pertaining to documentation, licensure, and standards of care have been established to ensure that nurses practice within a defined scope of practice and are aware of the boundaries of independent nursing action and responsibilities. These laws also act to hold nurses accountable for maintaining an acceptable standard of patient care. However, perhaps the greatest concern for nurses is the threat of negligence or malpractice claims.

According to tort law, four elements must be established for a ruling of malpractice [6]:

- **Duty:** The nurse owed a duty to meet a particular standard of care.
- **Breach of duty:** The nurse failed to perform the owed duty.
- **Causation:** There is a causal connection between the nurse’s failure and the patient’s injury.
- **Damages:** An injury occurred for which monetary compensation is adequate relief.

These elements must be shown by a “preponderance of the evidence,” defined as more than 50% probability, a lower standard than the “beyond a reasonable doubt” used in criminal law [7; 8]. Malpractice cases are decided on the basis of what a “jury is likely to think is fact” rather than actual fact [9].

DISCIPLINARY ACTIONS

The Board of Nursing was created to assure protection of the public from nurses who do not meet minimum requirements for safe practice or who pose a danger to the public [3]. Violations of the laws established by the Board to ensure safe nursing practice are punishable by disciplinary action. These penalties are in addition to the results of any legal or civil proceedings that may be brought by the State or by patients or affected parties.

Acts requiring disciplinary or legal action are outlined in sections 464.016, 464.017, and 464.018 of the Nurse Practice Act [3]. According to section 464.016, the following acts are considered felonies in the third degree [3]:

- Practicing advanced or specialized, professional, or practical nursing unless holding an active license or certificate to do so
- Using or attempting to use a license or certificate that has been suspended or revoked
- Knowingly employing unlicensed persons in the practice of nursing
- Obtaining or attempting to obtain a license or certificate by misleading statements or knowing misrepresentation

In addition, the following acts constitute misdemeanors in the first degree [3]:

- Using the name or title “Nurse,” “Registered Nurse,” “Licensed Practical Nurse,” “Clinical Nurse Specialist,” “Certified Registered Nurse Anesthetist,” “Certified Nurse Practitioner,” “Certified Nurse Midwife,” “Advanced Practice Registered Nurse,” or any other name or title that implies that a person was licensed or certified as same, unless such person is duly licensed or certified

- Knowingly concealing information relating to violations of this part

These actions are punishable by law according to sections 775.082, 775.083, and 775.084 of the Statutes, Constitution, and Laws of Florida [3].

Several actions are also considered grounds for denial of a license or disciplinary action. According to section 464.018, this includes [3]:

- 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
- 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
- Being convicted or found guilty of, or entering a plea of *nolo contendere* to, regardless of adjudication, a crime in any jurisdiction that directly relates to the practice of nursing or to the ability to practice nursing
- Being convicted of or found guilty of, or entering a plea of guilty or *nolo contendere* (no contest) to, regardless of adjudication, any of the following offenses:
 - A forcible felony
 - Theft, robbery, and related crimes
 - Fraudulent practices
 - Lewdness and indecent exposure
 - Assault, battery, and culpable negligence
 - Child abuse, abandonment, and neglect
 - Abuse, neglect, and exploitation
 - For an applicant for a multistate license or for a multistate license-holder, a felony offense under Florida law or federal criminal law

- Having been found guilty of, regardless of adjudication, or entered a plea of no contest or guilty to, any offense prohibited under Section 435.04 or similar statute of another jurisdiction; or having committed an act which constitutes domestic violence
- Making or filing a false report or record, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing or inducing another person to do so (limited to reports or records signed in the nurse's capacity as a licensed nurse)
- False, misleading, or deceptive advertising
- Unprofessional conduct
- Engaging or attempting to engage in the possession, sale, or distribution of controlled substances for any other than legitimate purposes
- 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
- Failing to report any person who the licensee knows is in violation of this part or of the rules of the Department or the Board to the Department or a consultant operating an impaired practitioner program, if appropriate
- 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
- 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

- Delegating professional responsibilities to a person when the nurse delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, certification, or licensure to perform them

For a full list of punishable acts, please refer to Chapter 464.018 of the Florida statutes.

Sexual misconduct is considered a breach of mutual trust and can irreparably damage the nurse-patient relationship. According to section 464.017, "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" [3]. Sexual misconduct in the practice of nursing is prohibited and is grounds for disciplinary action.

Disciplinary actions encompass a wide range of possible punishments, and the action chosen will depend on the individual circumstances (e.g., the severity of the violation, the number of past offenses). The Board may take the following actions in response to violations listed above [4]:

- Refusal to certify, or to certify with restrictions, an application for a license
- Suspension or permanent revocation of a license
- Restriction of practice or license
- Imposition of an administrative fine not to exceed \$10,000 for each count or separate offense
- Issuance of a reprimand or letter of concern
- Placement of the licensee on probation for a period of time and subject to such conditions as the Board may specify
- Corrective action

- Imposition of an administrative fine for violations regarding patient rights
- Refund of fees billed and collected from the patient or a third party on behalf of the patient
- Requirement that the practitioner undergo remedial education

Nurses who have been found guilty on three separate occasions of violations relating to the use of drugs or narcotics or involving the diversion of drugs or narcotics from patients to personal use or sale are not eligible for reinstatement of licensure [3].

In the annual report of fiscal year 2020–2022, more than 800 nurses licensed in Florida had received disciplinary actions. The most common orders are suspension of the nursing license (36%), limitations/obligations of a nursing license (12%), revocation of the nursing license (10%), and voluntary surrender of a nursing license (8%) [11]. In most cases, nurses are also responsible for paying any costs associated with their order (e.g., investigation, court costs).

Certain offences may be resolved by mediation. Rule 64B9-8.012 states that mediation is an acceptable resolution for the first instance of the following violations [10]:

- Issuance of a worthless bank check to the Department or the Board for initial licensure or renewal of license, provided the licensee does not practice on a delinquent license
- Failure to report address changes, provided the failure does not constitute failure to comply with an order of the Board
- Failure to pay fines and investigative costs by the time ordered
- Failure to timely submit documentation of completion of continuing education imposed by Board order
- Failure to update a practitioner profile within 15 days

EXCEPTIONS

In addition to the limitations listed in this course, it is important to note that there are exceptions to the Nurse Practice Act. The law expressly states that the Act does not prohibit [3]:

- The care of the sick by friends or members of the family without compensation, the incidental care of the sick by domestic servants, or the incidental care of non-institutionalized persons by a surrogate family
- Assistance by anyone in the case of an emergency
- The practice of nursing by students enrolled in approved schools of nursing
- The practice of nursing by graduates of prelicensure nursing education programs, pending the result of the first licensing examination for which they are eligible following graduation, provided they practice under direct supervision of a registered professional nurse
- The rendering of services by nursing assistants acting under the direct supervision of a registered professional nurse
- Any nurse practicing in accordance with the practices and principles of the body known as the Church of Christ Scientist
- The practice of any legally qualified nurse or licensed attendant of another state who is employed by the U.S. Government, or any bureau, division, or agency thereof, while in the discharge of official duties

- Any nurse currently licensed in another state or territory of the United States from performing nursing services in this state for a period of 60 days after furnishing to the employer satisfactory evidence of current licensure in another state or territory and having submitted proper application and fees to the Board for licensure prior to employment. If the nurse licensed in another state or territory is relocating to this state pursuant to his or her military-connected spouse's official military orders, this period shall be 120 days after furnishing to the employer satisfactory evidence of current licensure in another state or territory and having submitted proper application and fees to the Board for licensure prior to employment. The Board may extend this time for administrative purposes when necessary.
- The rendering of nursing services on a fee-for-service basis or the reimbursement for nursing services directly to a nurse rendering such services by any government program, commercial insurance company, hospital or medical services plan, or any other third-party payor
- The establishment of an independent practice by one or more nurses for the purpose of rendering to patients nursing services within the scope of the nursing license
- The furnishing of hemodialysis treatments in a patient's home, using an assistant chosen by the patient, provided that the assistant is properly trained (as defined by the Board by rule) and has immediate telephonic access to a registered nurse who is licensed pursuant to this part and who has dialysis training and experience
- The practice of nursing by any legally qualified nurse of another state whose employment requires the nurse to accompany and care for a patient temporarily residing in this state for not more than 30 consecutive days, provided the patient is not in an inpatient setting, the Board is notified prior to arrival of the patient and nurse, the nurse has the standing physician orders and current medical status of the patient available, and prearrangements with the appropriate licensed healthcare providers in this state have been made in case the patient needs placement in an inpatient setting
- The practice of nursing by individuals enrolled in board-approved remedial courses

CONCLUSION

It is the responsibility of the Florida Board of Nursing to enforce the laws and rules regulating the practice of nursing as the law is currently stated—not how individuals may wish the law to be. However, as nurses are affected by these rules and regulations, they have the responsibility to keep informed of regulatory changes and provide public comment regarding regulations. Board meetings are held every two months, generally during the first week of every even month, and are open to the public. The full board meetings include disciplinary cases, application review, committee reports, rule discussions, and other necessary Board actions. For more information, please contact the Board at 850-488-0595 or <https://floridasnursing.gov>.

Implicit Bias in Health Care

The role of implicit biases on healthcare outcomes has become a concern, as there is some evidence that implicit biases contribute to health disparities, professionals' attitudes toward and interactions with patients, quality of care, diagnoses, and treatment decisions. This may produce differences in help-seeking, diagnoses, and ultimately treatments and interventions. Implicit biases may also unwittingly produce professional behaviors, attitudes, and interactions that reduce patients' trust and comfort with their provider, leading to earlier termination of visits and/or reduced adherence and follow-up. Disadvantaged groups are marginalized in the healthcare system and vulnerable on multiple levels; health professionals' implicit biases can further exacerbate these existing disadvantages.

Interventions or strategies designed to reduce implicit bias may be categorized as change-based or control-based. Change-based interventions focus on reducing or changing cognitive associations underlying implicit biases. These interventions might include challenging stereotypes. Conversely, control-based interventions involve reducing the effects of the implicit bias on the individual's behaviors. These strategies include increasing awareness of biased thoughts and responses. The two types of interventions are not mutually exclusive and may be used synergistically.

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