Use of Code of Ethics and the Nurse Practice Act

Presented by Felicia Stokes JD, RN
District of Columbia Board of Nursing
American Nurses Association Ethics Advisory Board
Objectives

• Define the role of BON, NPA
• Identify updates in COE provisions
• Identify challenges of unprofessional conduct
• Case Studies: Deciphering the COE
• Disclaimer
What is the Role of the State Board of Nursing?

• Regulate nursing practice and licensure
• Protect the public
• Define Scope of Practice via Nurse Practice Act
Gallup Poll Says Nurses are the Most Ethical Professionals

A majority of state nurse practice acts or regulations of practice do not have the word “ethics” or “ethical” in the language.
SILLY NURSES
STETHOSCOPES ARE FOR DOCTORS
Provision 1

The nurse practices with compassion and respect for the inherent dignity, worth, and unique attributes of every person.

1.1 Respect for Human Dignity
1.2 Relationships with Patients
1.3 The Nature of Health
1.4 The Right to Self-Determination
1.5 Relationships with Colleagues and Others
Provision 2

The nurse’s primary commitment is to the patient, whether an individual, family, group, community, or population

2.1 Primacy of the Patient’s Interests

2.2 Conflict of Interest for Nurses

2.3 Collaboration

2.4 Professional Boundaries
Provision 3

The nurse promotes, advocates for, and protects the rights, health, and safety of the patient.

- 3.1 Protection of the Rights of Privacy and Confidentiality
- 3.2 Protection of Human Participants in Research
- 3.3 Performance Standards and Review Mechanisms
- 3.4 Professional Responsibility in Promoting a Culture of Safety
- 3.5 Protection of Patient Health and Safety by Acting on Questionable Practice
- 3.6 Patient Protection and Impaired Practice
Provision 4

The nurse has authority, accountability, and responsibility for nursing practice; makes decisions; and takes action consistent with the obligation to promote health and to provide optimal care.

4.1 Authority, Accountability, and Responsibility

4.2 Accountability for Nursing Judgments, Decisions, and Actions

4.3 Responsibility for Nursing Judgments, Decisions, and Actions

4.4 Assignment and Delegation of Nursing Activities or Tasks
Provision 5

The nurse owes the same duties to self as to others, including the responsibility to promote health and safety, preserve wholeness of character and integrity, maintain competence, and continue personal and professional growth.

- 5.1 Duties to Self and Others
- 5.2 Promotion of Personal Health, Safety, and Well-Being
- 5.3 Preservation of Wholeness of Character
- 5.4 Preservation of Integrity
- 5.5 Maintenance of Competence and Continuation of Professional Growth
- 5.6 Continuation of Personal Growth
Provision 6

The nurse, through individual and collective effort, establishes, maintains, and improves the ethical environment of the work setting and conditions of employment that are conducive to safe, quality health care.

- 6.1 The Environment and Moral Virtue
- 6.2 The Environment and Ethical Obligation
- 6.3 Responsibility for the Healthcare Environment
Washington, DC
Provision 7

The nurse, in all roles and settings, advances the profession through research and scholarly inquiry, professional standards development, and the generation of both nursing and health policy.

7.1 Contributions through Research and Scholarly Inquiry

7.2 Contributions through Developing, Maintaining, and Implementing Professional Practice Standards

7.3 Contributions through Nursing and Health Policy Development
Provision 8

The nurse collaborates with other health professionals and the public to protect human rights, promote health diplomacy, and reduce health disparities.

- 8.1 Health Is a Universal Right
- 8.2 Collaboration for Health, Human Rights, Health Diplomacy
- 8.3 Obligation to Advance Health and Human Rights and Reduce Disparities
- 8.4 Collaboration for Human Rights in Complex, Extreme, or Extraordinary Practice Settings
Provision 9

The profession of nursing, collectively through its professional organizations, must articulate nursing values, maintain the integrity of the profession, and integrate principles of social justice into nursing and health policy.

- 9.1 Articulation and Assertion of Values
- 9.2 Integrity of the Profession
- 9.3 Integrating Social Justice
- 9.4 Social Justice in Nursing and Health Policy
How Does the Code of Ethics Affect the Nurse Practice Act?

• Violations of the Code of Ethics can result in discipline action against the nurse

• Note*- The Code of Ethics can also assist in protection from regulatory discipline

• “Nurses must always comply with and adhere to state nurse practice acts, regulations, standards of care, and ANA’s Code of Ethics for Nurses for Nurses with Interpretive Statements” (ANA, 2015, p.15).
Some States Have Incorporated the Code Into the Practice Act

- South Carolina, 2014
- District of Columbia, “A [registered/practical] nurse shall adhere to the standards set forth in the ‘Code of Ethics for Nurses’ as published by the American Nurses Association, as they may be amended or republished from time to time.”
- West Virginia, Maryland
- Kentucky, Louisiana, Delaware (advisory)
Why is Incorporation Important?
Challenges to Unprofessional Conduct

• What does this mean?
• Does it differ by state?
• Vulnerability because it is often undefined
Example: Vulnerability
Provision 3: Social Media

- Massachusetts
- Utah
- Oregon
Case Studies

- Please review Case Study available on your table.
- Is there a COE violation? Which provision?
- Please pick a spokesperson for your table.
FINDINGS OF FACT

1. At all times relevant to this case, the Respondent was licensed to practice registered
nursing in the State of Maryland.

2. On July 14, 2006, the Board received a letter, dated July 12, 2006, from Patricia
McMullen, Associate Dean for Graduate Programs and Academic Affairs, the Catholic
University of America ("CUA"), School of Nursing. In her letter, Dr. McMullen stated that the
Respondent had recently applied for admission into the CUA Masters of Science in Nursing
program. As part of the application process, students must provide three recommendations. One
of the recommendations must come from a former professor. In her letter to the Board, Dr.
McMullen stated that she recently received such a letter in support of the Respondent's
application. The letter bore the signature of an "M. Spellbring" from the University of Maryland,
Shady Grove.

3. Dr. McMullen wrote that she was once a former colleague of Dr. Ann Marie Spellbring,
from the University of Maryland School of Nursing, and because Respondent's letter appeared to
be suspicious, she called Dr. Spellbring to ascertain whether she had written this
recommendation.
COMAR 10.27.19.02(B)(1): A nurse may not, when acting in the
capacity or identity of a licensed nurse: [k]nowingly participate in
or condone dishonesty, fraud, deceit, or misrepresentation.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 20th day of
July, 2008, by a majority vote of a quorum of the Maryland Board of Nursing:

ORDERED that Simisola Meadows, an individual licensed to practice REGISTERED
NURSING in the State of Maryland, is hereby REPRIMANDED.
wearing a v-neck and scrub top underneath the gown. Adkins entered the room and stood to the right of the patient’s bed, closer to the door, which was on the patient’s left side. She began gathering her supplies to perform the blood draw on the patient’s left arm when Leonard entered the room behind her.³ Adkins believed that he was going to do something with the patient, so she did not pay attention to him until he grabbed the collar of her gown and pulled it to look down her shirt. Adkins immediately said “stop,” nudged him with her left elbow, and moved away to the right. Leonard stopped touching her at that point, but he continued to gesture toward her three or four times, close to her body, as if he was going to do it again. Adkins told him to stop three or four more times and Leonard told her to “shut up” in a low tone of voice. Following the last gesture, Adkins finally “got loud” and said, “Stop,
Case Study 2: Conclusion

recommended discipline. In this case, the hearing officer found that Mr. Leonard engaged in sexual harassment and inappropriate physical and sexual contact with a co-worker that was neither invited nor welcomed by the co-worker. Recommendation at 39. The hearing officer goes on to recommend discipline in the form of six months of probation and 10 continuing education credits in the area of sexual boundaries in the workplace. The Board finds this discipline too lenient given the severity of the violation of the Board’s rules. Although the transgression does not rise to the level of necessitating suspension of his license, Mr. Leonard would be well served with a one year period of probation, during which time any further violations of the Board’s rules or statute will be treated very seriously. Thus, the Board modifies the recommended penalty to include a probationary term of one year, and 12 continuing education credits rather than 10 as the majority of continuing education classes are offered in 3 credit increments and 10 credits will be difficult, if not impossible, to achieve. After due consideration, the Board voted to modify the conclusions of law and recommended sanction proposed by the hearing officer.
5. Despite being notified twice, by her failure of NUR 2020 and by the Admissions Committee’s denial of her Petition, that she had not successfully completed CSM’s nursing program, on October 1, 2007, the Applicant took, and passed, the National Council Licensure Examination for Registered Nurses (“NCLEX-RN”). (State’s Exhibit 7, p. 0030). On October 5, 2007, the Board issued the Applicant a license to practice as a registered nurse. (State’s Exhibit 1, p. 0004).
Case Study 3

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Applicant violated Md. Health. Occ. Code Ann. § 8-316(a):

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or for another;

(2) Fraudulently or deceptively uses a license;

(8) Does an act that is inconsistent with generally accepted professional standards in the practice of registered nursing or licensed practical nursing; and

(25) Engages in conduct that violates the professional code of ethics.
ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the application of Shanika Marie Miles for examination of registered nurse licensure in the State of Maryland is hereby DENIED.
2. On or about December 13, 2010, the Board received a complaint from Facility A regarding Respondent’s nursing practice. According to the complaint, on or about October 12, 2010, Respondent refused to participate in the care of a critically ill patient after the assigned nurse refused to accept the patient assignment. Respondent also refused to accept responsibility for the patient’s care because the patient was receiving blood products.

3. Respondent was and is employed at Facility A in the Intensive Care Unit/Cardiac Care Unit-3 East (“ICU/CCU-3E”).
Case Study: What Should the Nurse Do?

Respondent’s documentation included: the RAT call was received at approximately ...

"...at this point patient was declined [sic] a blood transfusion due to her religious belief and will be transferred to ICU post-operatively."

The patient’s assigned nurse, RN1, documented the following at 2255: “Pt refusing blood transfusion consent stating she is not a baptized Jehovah’s Witness but she practices teachings.”

At approximately 2255, the patient signed a consent form for an exploratory laparotomy for possible hysterectomy and indicated on the consent form: “no blood products.”
Case Study: What Should the Nurse Do?

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent violated H.O. § 8-316(a) as follows:

(8) Does an act that is inconsistent with generally accepted professional standards in the practice of registered nursing;

(25) Engages in conduct that violates the professional code of ethics; specifically, Code of Maryland Regulations ("COMAR") 10.27.19.02 A. A nurse shall:

1.3 (1) Provide services with respect for human dignity and the uniqueness of a client unrestricted by consideration of social or economic status, religious affiliation, personal attributes, or the nature of health problems;

3.5 (3) Act to safeguard a client and the public if health care and safety are affected by the incompetent, unethical, or illegal practice of any person;

4.3 (4) Assume responsibility and accountability for individual nursing judgments and actions;

(30) Violates regulations adopted by the Board...; specifically, COMAR 10.27.09.03B. (2) (b) The RN shall demonstrate knowledge of and comply with:
(iii) The policies and procedures of the practice setting.
Case Study: What Should the Nurse Do?

- 1.1 Respect for Human Dignity
- 1.2 Relationships with Patients
- 1.4 The Right to Self-Determination
- 3.5 Protection of Patient Health and Safety by Acting on Questionable Practice
- 4.3 Responsibility for Nursing Judgments, Decisions and Actions
- 5.3 Preservation of Wholeness of Character
- 6.2 The Environment and Ethical Obligation
Case Study: What Should the Nurse Do?

6.2 The Environment and Ethical Obligation
Questions?

Felicia Stokes JD, RN
District of Columbia Board of Nursing
899 North Capitol Street NE, Second Floor
Washington, DC 20002
(202) 724-8691
felicia.stokes@dc.gov
References

- 17 D.C. Municipal Regulations Chapter 54, §5416.1 & Chapter 55, §5516.1.
- Or. Admin. R. §851-045-0070(m).
- Tuma vs. Board of Nursing, 100 Idaho 74, 593 P.2d 711 (1979).