Mitigating Your Liability Risks:

Nursing Protocols - Scope of Practice

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Objectives

- Define “Scope of Practice” for RNs, LPNs, and APRNs
- Identify steps for nurses to use to determine if an action is within their scope of practice
- Define and discuss practice protocols
- Discuss consequences of practicing outside the scope of practice
SC Statutes/Regulations/Guidance

Governing Nursing Practice

SC Code 40-33-5 et seq. – “Nurse Practice Act”

SC Code 40-1-10 et seq. – “Board Regulation of Professions & Occupations”

SC Code of Regulations 91-1 et seq. – Department of Labor, Licensing & Regulation – State Board of Nursing

SC Board of Nursing Advisory Opinions – approved by the Board of Nursing in answer to certain nursing practice questions; opinions of the Board of Nursing as to what constitutes competent and safe nursing practice
Scope of Practice
“Practice of Nursing in SC”

SC Code 40-33-20 (46) - Definition

- Provision of services for compensation that assists persons to obtain or promote optimal health
- Requires use of “nursing judgment” which is the logical and systematic cognitive process of identifying pertinent information and evaluating data in the clinical context in order to produced informed decisions, which guide nursing actions
- Nursing Practice is provided by RNs, LPNs and APRNs
- The **SCOPE OF NURSING PRACTICE** varies with the educational preparation and demonstrated competencies of the nurse
Scope of Practice Decision Making

(LLR – SC Board of Nursing – “Scope of Practice Decision Tree” page 1-6)

- Nurses share a common base of responsibility and accountability defined as the practice of nursing

- Scope of practice parameters are defined by licensure preparation and advanced education

- **However** – competency based practice scope of individual nurses may vary according to the type of license, practice experience and professional development
Scope of Practice Decision Making

(LLR – SC Board of Nursing – “Scope of Practice Decision Tree” page 1-6)

• **Step 1:** *Describe the act to be performed*
  
  • What are you being asked to do?
  • Are there written policies/procedures available to describe how and under what circumstances to perform this act?
  • Is this a new expectations for all RNs (LPNs)?
  • Has this been done before by others in your unit or hospital?
  • Is it just new to you?
  • What about other facilities in your community?
  • What are the Nurse Manager’s expectations about you and other nurses becoming responsible for this procedure?
  • Will there be an opportunity to help you attain the needed clinical competency?
  • Who will be responsible for the initial supervision and evaluation of this newly performed task?
Scope of Practice Decision Making

(LLR – SC Board of Nursing – “Scope of Practice Decision Tree” page 1-6)

Step 2: Review the scope of practice for your licensure level

**LPN** – “Practice of Practical Nursing” SC Code 40-33-20(47)

- Performance of health care acts that require knowledge, judgment and skill performed under the supervision of an APRN, RN, MD, Dentist
- Includes but is not limited to:
  a. Collecting health care data to assist in care planning of patients
  b. Administering and delivering medications and treatments
  c. Implementing nursing interventions and tasks
  d. Basic teaching for health promotion
  e. Assist in evaluation of responses to interventions
  f. Providing for the maintenance of safe and effective nursing care
  g. Delegating tasks to qualified others
  h. Performing additional acts that require special education and training (approved by Board)
Scope of Practice Decision Making

((LLR – SC Board of Nursing – “Scope of Practice Decision Tree” page 1-6)

**Step 2 (continued)**

**RN –”Practice of Registered Nursing” SC Code 40-33-20 (48)**

- Performance of health care acts in the nursing process that involve assessment, analysis, intervention & evaluation
- Requires specialized independent judgment and skill based on knowledge and application of principles of biophysical and social sciences
- Includes but is not limited to:
  - Assessing & analyzing health status of patients and groups
  - Establishing outcomes to meet identified health care needs
  - **Prescribing & implementing NURSING INTERVENTIONS** to achieve outcomes
  - Administers and delivers medications & treatments prescribed by an authorized licensed provider
  - Delegates nursing interventions to qualified others
  - Provides for maintenance of safe and effective nursing care directly or indirectly
  - Counseling and teaching for promotion of health
  - Evaluating and revising responses to interventions as appropriate
  - Teaching and evaluating the practice of nursing
  - Manages and supervises the practice of nursing
  - Collaborates with other health care professionals in the management of patient care
  - Participates in or conducts research to enhance nursing knowledge
  - Performs additional acts that require special education and training (approved by Board)
Scope of Practice Decision Making

(LLR – SC Board of Nursing – “Scope of Practice Decision Tree” page 1-6)

Step 2 (continued)

APRN –”Advanced Practice Registered Nurse” SC Code 40-33-20 (5)

• RN who is prepared for advanced practice role by virtue of additional knowledge and skills gained through an advanced formal education program of nursing in a specialty area that is approved by the Board. Shall hold a doctorate, a post-nursing masters, or a minimum of a master’s degree that includes advanced education in a specific area of advanced practice registered nursing

• Categories of APRN practice include:
  a. Nurse Practitioner (NP)
  b. Certified Nurse-Midwife (CNM)
  c. Clinical Nurse Specialist (CNS)
  d. Certified Registered Nurse Anesthetist (CRNA)

In addition to activities considered the practice of registered nursing - may perform delegated medical acts
Scope of Practice Decision Making

(From LLR – SC Board of Nursing – “Scope of Practice Decision Tree” page 1-6)

Step 3: Is the act expressly permitted or prohibited by the SC Nurse Practice Act for the licensure that you hold? (unsure; permitted; prohibited)

Step 4: Is the act consistent with your scope of nursing practice based on ALL of the following?
- Education taught in basic nursing education program or through attainment of additional competencies
- Established polices & procedures in the employing facility
- Standards of Nursing Practice or scope of practice statements from professional organizations and the SC Nurse Practice Act
Scope of Practice Decision Making

(LLR – SC Board of Nursing – “Scope of Practice Decision Tree” page 1-6)

Step 5: Do you personally possess the depth and breadth of knowledge to perform the act safely and effectively, as acquired in a pre-licensure program, post-basic program, continuing education program or structured self-study?

Step 6: Do you personally possess current clinical skills to perform the act safely?
Scope of Practice Decision Making

( LLR – SC Board of Nursing – “Scope of Practice Decision Tree” page 1-6 )

Step 7: Is the performance of the act:
   a. within the accepted standard of nursing practice which would be provided in similar circumstances; AND
   b. consistent with appropriate established facility policies and procedures?

Step 8: Are you prepared to accept the consequences of your actions?
   - Yes: perform the act with valid orders when necessary and in accordance with agency policies & procedures
   - No: STOP! No accountability is assumed! Notify appropriate person(s) according to the facility policies/procedures
Appendix
Overview of Scope of Practice Decision Tree for SC Nurses

Each nurse is responsible for implementing the decision tree as noted in its entirety in the SC Board of Nursing’s document entitled, “Scope of Practice Decision Tree.”

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| 1 | Is the act being considered for delegation expressly permitted or prohibited by the S.C. Nurse Practice Act for the license you hold?  
   | If Permitted: Go to #3 | If Unsure: Go to #2 | If Prohibited: Not within your scope. |
| 2 | Is the act consistent with all of the following?  
   | ☐ Education taught in your basic nursing education program or through attainment of additional competencies.  
   | ☐ Established policies and procedures in your employing organization or facility.  
   | ☐ Standards of Nursing Practice or scope of practice statements from professional organizations and the SC Nurse Practice Act.  
   | ☐ Professional and ethical responsibilities resulting in best practices.  
   | Yes: Go to #3 | No: Not within your scope. |
| 3 | Do you possess the depth and breadth of knowledge to perform the act safely and effectively, as acquired in a pre-licensure program, post-basic program, continuing education program or structured self-study?  
   | Yes: Go to #4 | No: Stop! Until additional knowledge gained, then go to #4. |
| 4 | Do you possess current clinical skills to perform the act safely?  
   | Yes: Go to #5 | No: Stop! Until clinical skills are attained, then go to #5. |
| 5 | Is the performance of the act (a) within the accepted standard of nursing practice which would be provided in similar circumstances and (b) consistent with appropriate established facility/agency policies and procedures?  
   | Yes: Go to #6 | No: Stop! Performance of the act may place both patient and nurse at risk. Notify appropriate person(s) according to facility policies/procedures. |
| 6 | Are you prepared to accept the consequences of your actions?  
   | Yes: Perform the act with a valid order when necessary, and in accordance with agency policies and procedures. | No: Stop! No accountability is assumed. Notify the appropriate person(s) according to facility policies/procedures. |
What can happen if you practice outside the Scope of Practice?

Grounds for Discipline of Licensees
SC Code 40-33-110 (A)(21)

**PRACTICED OUTSIDE THE SCOPE OF THE LICENSE BY ASSUMING DUTIES AND RESPONSIBILITIES WITHOUT ADEQUATE EDUCATION AS DETERMINED BY THE BOARD**

Upon finding of misconduct the Board may cancel, fine, suspend, revoke, issue a public or a private reprimand, restrict, including probation or requiring additional education and training - the authorization to practice nursing of a person who has:
Examples of Practicing outside the Scope of Nursing Practice
Giving medications without an order

- Patient c/o indigestion and states this is chronic and he takes Mylanta at home
- It is 3:00 am
- There is no order on chart for antacid prn
- Nurse administers Mylanta 30 cc po
- RN writes order: “May give Mylanta 30cc po now for indigestion – v.o. Dr. Smith /Jane Jones RN”
- Rationale – Dr. Smith will cover this and appreciate not being disturbed at 3:00 am for a medicine that the patient could buy and take without a prescription
Additional Examples

- Administer narcotic order that has expired
- Ordering a lab test without a MD order
- Initiating a treatment without an order
Grounds for Discipline of Licensees

SC Code 40-33-110

Upon finding of misconduct the Board may cancel, fine, suspend, revoke, issue a public or a private reprimand, restrict, including probation or requiring additional education and training - the authorization to practice nursing of a person who has:

1. Violated a federal, state, or local law involving ETOH or drugs or committed an act involving a crime of moral turpitude. A conviction is not required to prove misconduct

2. Allow another person to use the nurse’s license to practice

3. Willfully or repeatedly following a course of conduct that by reasonable professional standards, renders the licensee incompetent to perform duties of a licensed nurse

4. Had a license in another state suspended, revoked, or had disciplinary action, which creates a rebuttable presumption that a SC license may be acted upon similarly
5. Violates a regulation or order of the board

6. Fails to cooperate with an investigation or other proceeding of the board

7. Fails to comply with a directive or order of the board

8. Disseminated a patient’s health or personal information acquired during the course of practice to persons not entitled by law or hospital policy to disclosure of this information

9. Falsified or altered, for the purpose of reflecting incorrect or incomplete information, any records, including personnel or patient records

10. Misappropriated money, property or drugs from employer or patient

11. Obtained or attempted to obtain a fee for patient service through fraud, misrepresentation or deceit

12. Willfully aided, abetted, assisted or hired a person to violate a regulation of the board

13. **Obtained, possessed, administered or furnished prescription drugs to a person (including self) except as directed by a person authorized by law to prescribe drugs**
14. Engaged in practice of nursing when judgment or physical ability is impaired by ETOH, drugs or controlled substances

15. Sustained a physical or mental disability that renders further practice dangerous to the public

16. Omitted – in a grossly negligent fashion – to record information concerning a patient that would be relevant to the patient’s condition

17. *Indicated the witnessing of wastage of narcotics or controlled substances on record when the wastage was not witnessed or failed to obtain a witness to the wastage of narcotics or controlled substances*

18. *Failed to make or keep accurate, intelligible entries in records as required by law, policy, or standards for the practice of nursing*

19. Obtained or attempted to obtain a license to practice nursing through fraud, deceit, misrepresentation or any other dishonesty in any phase of the licensing process
20. Practiced nursing without a valid, current SC license

22. **PRACTICED OUTSIDE THE SCOPE OF THE LICENSE BY ASSUMING DUTIES AND RESPONSIBILITIES WITHOUT ADEQUATE EDUCATION AS DETERMINED BY THE BOARD**
Nursing Protocols
“Approved Written Protocol”

**SC Code 40-33-20 (106) - Definition**

Specific statements developed collaboratively by a physician or the medical staff and a NP, CNM, or CNS that establishes physician delegation for medical aspects of care, including the prescription of medications.
A Nursing Protocol Is:

A. Nursing Policies/Procedures/Guidelines?
B. National Certification Guidelines?
C. Practice Protocols requiring nursing assessment/judgment?
D. Physician Order Sets?
E. Critical Pathways?
F. All of the Above?
G. None of the Above?
H. It depends on your organization?
Answer:

- Probably depends on your facility and how terms are defined
- **Nursing actions not involving physician orders**
- Because of confusion in using word “protocol” – probably better to use term “guideline” to identify recommended nursing care for a patient population – not protocol
Practice Protocols

- Written protocol of physician orders that may incorporate nursing assessment
- Approved by Medical Staff
- Referenced in nursing policies/procedures
Examples of Practice Protocols:

- Hypoglycemia Protocol
- ER
  - Chest Pain Protocol
  - GI Protocol
  - Stroke Protocol
Nursing Scope of Practice Issues Related to Practice Protocols

• Nurse decides to deviate from practice protocol without physician order

• Example: ER nurse decides that this is not a “true chest pain” patient and opts to not order cardiac enzymes or apply oxygen
Question Orders

• Question any order followed by words “per protocol...”

• ...If your institution does not have a protocol in place!

• For example: “PPD per protocol”
Don’t Play Russian Roulette with Your Nursing License!!
QUESTIONS?