

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH, BOARD OF)
NURSING,)
)
Petitioner,)
)
vs.) Case No. 05-0957PL
)
BEATRICE A. HENDERSON, L.P.N.,)
)
Respondent.)
_____)

RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on May 27, 2005, in Orlando, Florida, before Susan B. Harrell, a designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: S. J. DiConcilio, Esquire
Katharine B. Heyward, Esquire
Department of Health
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Tallahassee, Florida 32399-3265

For Respondent: Beatrice A. Henderson, pro se
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STATEMENT OF THE ISSUES

Whether Respondent violated Subsection 464.018(1)(h),
Florida Statutes (2001),¹ and Florida Administrative Code Rules

64B9-8.005(2) and 64B9-8.005(15), and, if so, what discipline should be imposed.

PRELIMINARY STATEMENT

On September 29, 2003, Petitioner, the Department of Health, Board of Nursing (Department), filed a two-count Administrative Complaint against Respondent, Beatrice A. Henderson (Ms. Henderson), alleging that she violated Subsection 464.018(1)(h), Florida Statutes, by engaging in unprofessional conduct as defined in Florida Administrative Code Rules 64B9-8.005(2) and 6B9-8.005(15). Ms. Henderson requested an administrative hearing by an Election of Rights Form dated November 24, 2003. The case was forwarded to the Division of Administrative Hearings on March 14, 2005.

On May 20, 2005, Petitioner filed Petitioner's Motion to Take Official Recognition of certain rules. The motion was granted, and an Order was entered on May 25, 2005, taking official recognition of the following rules: Florida Administrative Code Rule 64B9-8.005, which was in effect from March 23, 2000, until February 14, 2002; Florida Administrative Code Rule 64B9-12.002, which has been in effect from January 16, 1991, to the present; Florida Administrative Code Rule 64B9-12.003, which has been in effect from April 9, 1998, to the present; and Florida Administrative Code Rule 64B9-12.004, which has been in effect from January 16, 1991, to the present.

At the final hearing, the Department called the following witnesses: Carol Paris, Donna Payne, Sidronio Casas, Erlinda Lagman, Norma Dorothy Collins, and Bonnie Edwina Strade. Petitioner's Exhibits 1 through 8 were admitted in evidence. At the final hearing, Ms. Henderson testified on her own behalf. Respondent's Exhibits 1 through 5 were admitted in evidence.

The parties agreed to file their proposed recommended orders within ten days of the filing of the two-volume Transcript, which was filed on August 3, 2005. The Department filed its Proposed Recommended Order on August 12, 2005. As of the date of the Recommended Order, Ms. Henderson has not filed a proposed recommended order.

FINDINGS OF FACT

1. The Department is the agency of the State of Florida charged with the responsibility for the investigation and prosecution of complaints involving nurses licensed to practice in Florida.

2. Ms. Henderson is and was, at all times material to this proceeding, a Licensed Practical Nurse (LPN), licensed to practice nursing in Florida, having been issued license number PN1279561.

3. In July 2001, Ms. Henderson was employed as a LPN II at Lucerne Transitional Care Center (Lucerne). Lucerne is a hospital-based skilled nursing unit, similar to a nursing home

and is part of the Orlando Regional Healthcare System (Orlando Regional). The policies of Orlando Regional apply to all the hospitals within Orlando Regional, including Lucerne. One of the policies of Orlando Regional deals with the types of IV medications that can be administered by a LPN and provides:

LPN - IV medications may be administered by LPN's who have completed the IV therapy course required by the Florida State Board, and demonstrated competency.

1. Exception: Aspects of intravenous therapy that are outside the scope of practice of the LPN per Florida State Board and therefore not allowed in ORH facilities are:

- a. Initiation of blood or blood products;
- b. Initiation of administration of cancer chemotherapy;
- c. Initiation of plasma expanders;
- d. Initiation of administration of investigational drugs;
- e. Mixing IV solutions;
- f. IV pushes, except heparin and saline flushes.

The policy further provides that IV pushes may be administered by a qualified Registered Nurse (RN). Florida Administrative Code Rule 64B9-12.003(1) allows a LPN to administer IV pushes if done under the direct supervision of a RN or physician; however, Orlando Regional's policy prohibited LPNs from administering medications by IV push even if a RN or physician was directly supervising the IV push.

4. R.U. was a patient at Lucerne on July 28, 2001. R.U. was a quadriplegic who had infected decubiti. When he was

admitted on July 20, 2001, his physician ordered morphine sulfate to be administered for pain. The order provided:

MORPHINE SULFATE INJ 8 MG. IV PUSH, Q2H,
PRN--SEVERE PAIN--MAY GIVE 6-8 MG.

5. Ms. Henderson was on the team assigned to provide care for R.U. on July 28, 2001. At approximately 0130 hours on that date, R.U. requested his pain medication. Ms. Henderson went to get the RN on her team to administer the morphine sulfate. The RN was dressing another patient's wounds and could not leave the patient until the wounds were covered. The RN told Ms. Henderson that R.U. would have to wait until she finished dressing the wounds.

6. Although Ms. Henderson was aware of the Orlando Regional's policy, which did not allow a LPN to administer medication by IV push, she did not wait for the RN, but decided to administer the morphine sulfate by IV push herself. Instead of administering the dosage ordered by the physician, she administered ten milligrams. R.U. questioned Ms. Henderson about her ability to administer an IV push, stating that his home health care nurse could not do so. Ms. Henderson told him that she was qualified to do it and that an RN was on the premises.

7. On July 28, 2001, at 0430 hours, R.U. again asked for pain medication. The RN on duty was not available to give the

IV push because she was with another patient providing wound care. Again, Ms. Henderson took it upon herself to administer the morphine sulfate by IV push and administered ten milligrams, in violation of the physician's order.

8. Neither the RN on duty nor the RN supervisor delegated to Ms. Henderson the authority to administer IV push medications to R.U. Ms. Henderson was not under direct supervision of an RN either time she administered the morphine sulfate to R.U. by IV push.

9. Ms. Henderson was aware that the physician's order for R.U. was for an eight-milligram dose of morphine sulfate. In a letter dated March 1, 2002, to an attorney for the Department, she stated:

I administered 10 mg. because I thought that amount would be effective in relieving my patient's severe pain. I did read the orders, took the facts into consideration, and used the dose range calculation and determined that since so much time had elapsed, it would be acceptable.

10. The physician's order for the morphine sulfate by IV push was never changed by the physician to ten milligrams while R.U. was at Lucerne.

11. The morphine sulfate by IV push was administered to R.U. through a Groshong catheter. Medication administered through a Groshong catheter travels directly to the big central vena cava vein of the patient. Improper administration of

medication through a Groshong catheter is dangerous because it can cause respiratory distress or even death to a patient.

12. Ms. Bonnie Strade, a RN, testified on behalf of the Department and was qualified as an expert in the field of nursing for both RNs and LPNs. It was Ms. Strade's opinion, which is credited, that Ms. Henderson's administration on two occasions of ten milligrams of morphine sulfate by IV push to R.U. did not conform to the minimum standards of acceptable and prevailing nursing practice.

CONCLUSIONS OF LAW

13. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. §§ 120.569 and 120.57, Fla. Stat. (2004).

14. The Department has the burden to establish the allegations in the Administrative Complaint by clear and convincing evidence. Department of Banking and Finance v. Osborne Stern & Co., 670 So. 2d 932 (Fla. 1996).

15. The Department alleged in the Administrative Complaint that Ms. Henderson violated Subsection 464.018(1)(h), Florida Statutes, which provides that the following constitutes grounds for taking disciplinary action against LPN's in Florida :

Unprofessional conduct, which shall include but not be limited to, any departure from, or the failure to conform to, the minimum standards of acceptable and prevailing

nursing practice, in which case actual injury need not be established.

16. In Count I of the Administrative Complaint, the Department alleged that Ms. Henderson was guilty of unprofessional conduct as defined in Florida Administrative Code Rule 64B9-8.005(2), which includes "[a]dministering medications or treatments in a negligent manner" in the definition of unprofessional conduct.

17. Florida Administrative Code Rule 64B9-12.003(1) provides:

- (1) Aspects of intravenous therapy which are outside the scope of practice of the licensed practical nurse unless under the direct supervision of the registered professional nurse or physician and which shall not be performed or initiated by the licensed practical nurse without direct supervision include the following:
 - (a) initiation of blood or blood products;
 - (b) initiation or administration of cancer chemotherapy;
 - (c) initiation of plasma expanders;
 - (d) initiation or administration of investigational drugs;
 - (e) mixing IV solution;
 - (f) IV pushes except heparin flushes and saline flushes.

18. Florida Administrative Code Rule 64B9-12.002 defines "direct supervision" as "on the premises and immediately physically available." Although a RN was on the premises when Ms. Henderson administered the medication by IV push, the RN was not immediately physically available. The RN was changing the

dressing on a wound that she could not leave uncovered in order to immediately assist Ms. Henderson if necessary.

19. Ms. Henderson violated Orlando Regional policy by administering the medication by IV push. The policy prohibited a LPN from administering IV pushes, except heparin flushes and saline flushes even if the LPN was under the direct supervision of a RN.

20. Ms. Henderson failed to administer the dosage prescribed by R.U.'s physician. She administered ten milligrams instead of the six to eight milligrams, which had been ordered by the physician.

21. The Department has established by clear and convincing evidence that Ms. Henderson was guilty of unprofessional conduct by administering the morphine sulfate in a negligent manner. Thus, Ms. Henderson violated Subsection 464.018(1)(h), Florida Statutes, by violating Florida Administrative Code Rule 64B9-8.005(2).

22. In Count II of the Administrative Complaint, the Department alleged that Ms. Henderson was guilty of unprofessional conduct as defined in Florida Administrative Code Rule 64B9-8.005(15), which includes "[p]racticing beyond the scope of the licensee's license, education preparation, or nursing experience" in the definition of unprofessional conduct. The Department has established by clear and convincing evidence


that Ms. Henderson practiced beyond the scope of her license when she administered morphine sulfate to R.U. by IV push without the direct supervision of a RN or physician. Thus, Ms. Henderson violated Subsection 464.018(1)(h), Florida Statutes, by violating Florida Administrative Code Rule 64B9-8.005(15).

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that a final order be entered finding that Beatrice A. Henderson violated Subsection 464.018(1)(h), Florida Statutes, by violating Florida Administrative Code Rules 64B9-8.005(2) and 64B9-8.005(15); imposing an administrative fine of \$350; and placing her on probation for two years.

DONE AND ENTERED this 26th day of August, 2005, in Tallahassee, Leon County, Florida.



SUSAN B. HARRELL
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 26th day of August, 2005.

ENDNOTE

1/ Unless otherwise indicated, all references to the Florida Statutes are to the 2001 version.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.