

FILED DATE **FEB 20 2014**

Department of Health

By: *Angel Sanders*
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF NURSING

IN RE: THE PETITION
FOR DECLARATORY
STATEMENT OF
LISA BERGERON, RN, MSN
_____ /

FINAL ORDER

THIS CAUSE came before the Board of Nursing (hereinafter Board) pursuant to §120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code, at a duly-noticed meeting Tampa, Florida on June 6, 2013, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A) filed on behalf of LISA BERGERON (hereinafter Petitioner). Having considered the petition, the arguments submitted by counsel for Petitioner, and being otherwise fully advised in the premises, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. This petition was noticed by the Board in Vol. 39, No. 88, dated May 6, 2013 of the Florida Administrative Register.
2. Petitioner, LISA BERGERON, is a nurse licensed to practice in the State of Florida.
3. Petitioner submitted a proposed Ventriculostomy Flushing Protocol prepared by Petitioner's employer, Broward Health Medical Center.
4. The protocol addresses ventriculostomy flushing or ventriculostomy catheters by registered nurses.


CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.
2. The petition filed in this cause is not in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.
3. The petition requests a statement of general applicability that is not appropriate for resolution by the issuance of a declaratory statement.
4. The Board of Nursing does not issue opinions concerning the validity of facility protocols.

WHEREFORE, the Board hereby dismisses the petition.

DONE AND ORDERED this 18th day of Feb., 2014.

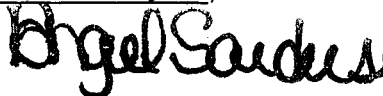
BOARD OF NURSING



Joe R. Baker, Jr., Executive Director
for Lavigne Ann Kirkpatrick, BS, RN
Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. Mail to Vanessa A. Reynolds, Esquire, Broad and Cassel, One Financial Plaza, Suite 2700, Ft. Lauderdale FL 33394, and by interoffice mail to Donna Oxford, Paralegal Specialist, Department of Legal Affairs, PL-01 The Capitol, Tallahassee FL 32399-1050 this 20th day of February, 2014.



Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF NURSING

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE APR 16 2013

IN RE:

CASE NO.: _____

Petition for Declaratory Statement of
Lisa Bergeron, R.N., M.S.N.

PETITION FOR DECLARATORY STATEMENT
BEFORE THE BOARD OF NURSING

Pursuant to section 120.565, Florida Statutes, Petitioner, Lisa Bergeron, R.N., M.S.N. ("Bergeron"), petitions the Board of Nursing for a Declaratory Statement and states:

BACKGROUND

1. Petitioner is a registered nurse licensed under Chapter 464, Florida Statutes. Petitioner is employed by Broward Health Medical Center, a licensed acute care hospital, with its principal location at 303 S.E. 17th Street, Fort Lauderdale, Florida 33316 ("Broward Health").¹ For the purposes of this Petition, Petitioner's address, telephone and facsimile numbers are those of the undersigned counsel.

2. This Petition affects the State of Florida's Board of Nursing ("Board").

3. This Petition is brought pursuant to section 120.565, Florida Statutes, and Rules 28-105.001 and 28-105.002, Florida Administrative Code. The statutory and regulatory provisions on which a declaratory statement is sought are sections 464.018(1) and 456.072(1), Florida Statutes, and rule 64B9-8.005(13), Florida Administrative Code.

4. The purpose of a declaratory statement is to address the applicability of a statutory provision or an order or rule of an agency in particular circumstances. *Chiles v. Dep't*

¹ Broward Health Medical Center is owned and operated by the North Broward Hospital District, a special taxing district of the State of Florida.

of State, Div. of Elections, 711 So. 2d 151, 154 (Fla. 1st DCA 1998). Petitioner seeks the Board's guidance regarding the performance of ventriculostomy flushing in relation to her obligations under the Nurse Practice Act; specifically whether ventriculostomy flushing falls within the scope of practice for a registered nurse.

FACTS

5. Petitioner is employed by Broward Health as a Clinical Specialist in the hospital's intensive care units ("ICU"). Her duties include insuring best practices in the hospital's ICUs and providing patient care to critically ill and injured patients.

6. Ventriculostomy refers to the placement of an intercranial pressure ("ICP") monitoring device, or ventriculostomy catheter, through a burr hole in the patient's skull, into the patient's brain. It provides for measurement of ICP and for drainage of cerebral spinal fluid. On occasion, the ventriculostomy catheter may become obstructed by debris such as blood clots, brain tissue or fibrin deposits that impede the drainage of cerebral spinal fluid and interfere with adequate waveform transmission (pressure measurements).

7. Physicians on staff at Broward Health have requested that specially trained intensive care unit nurses perform ventriculostomy flushing for patients whose ventriculostomy catheters may have become obstructed. In response to the physicians' request, Broward Health has drafted a proposed Ventriculostomy Flushing Protocol ("Protocol"). A copy of Broward Health's proposed Protocol/Competency Validation is attached at Exhibit A. The Protocol requires designated critical care registered nurses who have received special training to irrigate the ventriculostomy catheter with normal saline to clear it of debris to allow drainage of cerebral spinal fluid and restore adequate waveform transmission. The primary risk associated with the procedure is infection.

8. Petitioner is a registered nurse at Broward Health who will be assigned to perform ventriculostomy flushing.

9. Petitioner is therefore seeking the Board's guidance regarding the scope of nursing practice as it relates to ventriculostomy flushing by registered nurses and, specifically, by Petitioner.

LEGAL ISSUES

10. Section 464.018(1)(h) provides, in pertinent part, that a licensee may be disciplined for unprofessional conduct, as defined by Board rule. Pursuant to rule 64B9-8.005(13), unprofessional conduct includes "practicing beyond the scope of the licensee's license, educational preparation or nursing experience."

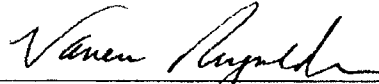
11. In addition, a licensee may be disciplined for intentionally violating any rule adopted by the Board or the Department of Health, or for practicing or offering to practice beyond the scope permitted by law. *See* § 456.072(1)(b) and (o), Fla. Stat.

12. Petitioner and her counsel have been unable to locate any published guidance addressing whether ventriculostomy flushing would fall within the scope of a professional nurse's licensure in Florida.

13. Petitioner therefore requests that the Board determine whether the performance by a registered nurse of ventriculostomy flushing would constitute a violation of 464.018(1) or 456.072(1) and subject Petitioner to sanctions against her license.

WHEREFORE, Petitioner respectfully requests that the Board issue a Declaratory Statement advising whether performing ventriculostomy flushing in accordance with Broward Health's proposed protocol would subject Petitioner to disciplinary action under the Nurse Practice Act and the rules promulgated there under.

Respectfully submitted this 16th day of April, 2013.



VANESSA A. REYNOLDS
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Health Law 4835-4009-2434.2
37751/0003



CLINICAL EDUCATION

Assessment and Competency Validation
Competency: Ventriculostomy Flushing Protocol
 Check one: Initial Annual

Employee:			Title:		Dept/Unit: AICU			
Validator: Lisa M Bergeron			Title: RN Clinical Education Specialist					
Validator: (Check one) <input type="checkbox"/> A:Preceptor <input type="checkbox"/> B:Staff Educator <input type="checkbox"/> C:Clinical/Shift Mgr <input type="checkbox"/> D:Director <input type="checkbox"/> E:Product Rep/Vendor <input type="checkbox"/> F:ARNP <input type="checkbox"/> G:Other (specify)								
Self Assessment <u>Frequency</u>		Self Assessment <u>Experience</u>		Population Served		Validation Method		Level of Competence
1. Rarely observed/Never done 2. Rarely done, < 6 times/year 3. Occasionally done, 1-2 times/month 4. Frequently done, daily or weekly		A. None B. Limited C. Moderate D. Proficient		1. Neonate 2. Infant/Toddler 3. Child 4. Adolescent 5. Adult 6. Geriatric 7. Other considerations (gender, cultural, chronic disease, socioeconomic, specific needs etc)		A. Cognitive: test, verbalize actions or steps B. Psychomotor: demonstrates skill in lab or simulated setting C. Psychomotor: demonstrates skill in actual setting D. Affective: demonstrates appropriate attitude/behavior E. Unable to Validate: see follow up plan		1. Novice must perform under direct supervision 2. Proficient: can perform independently 3. Advanced : able to assess competence of others/able to teach
FREQ	EXP	Competency	Standard	Pop Served	Validation		Follow up Eval	
					Valid. Method	Level of Comp	Valid. Method	Level of Comp
1	A	Aseptic Technique with the External Intraventricular Catheter System	1. Verbalizes the definition of aseptic technique 2. Identifies that the process of adhering to aseptic technique is essential in the prevention of infection in ventricular catheters	5,6,7	A, B,D			
1	A	Troubleshooting: Lack of CSF drainage over a 2 hour period	1. Troubleshooting to be performed by Charge RN and patient's Primary RN together 2. Check for kinks in the system line 3. Assure that the stopcocks are in the correct position to facilitate CSF drainage 3. Check the patency of the catheter by observing for flow of CSF by lowering the drainage bag below the Foramen of Monroe 4. Irrigate tubing distal to patient if needed with preservative-free sterile saline	5,6,7	A, B, D			
1	A	Troubleshooting: Abnormal or dampened waveform and/or negative ICP numbers	1. Check the system set-up 2. Check the system for air bubbles, clots, or brain tissue in tubing and transducer 3. Zero and recalibrate 4. Check the scale and labels for accuracy 5. Irrigate tubing distal to patient if needed with preservative-free saline	5,6,7	A, B, D			

1	A	Notification of Neurosurgeon	<p>1. Charge RN to notify Neurosurgeon immediately of dysfunctional ventricular catheter if troubleshooting interventions do not correct the problem identified (dampened waveform and/or no CSF drainage over a 2 hour period).</p> <p>2. Charge RN to obtain order to follow <i>Ventricular flushing Protocol</i></p>	5,6,7	A, B, D			
1	A	Process for Flushing Intraventricular Catheter	<p>1. NO FLUSHING OF THE INTRAVENTRICULAR SYSTEM TOWARDS THE PATIENT IS TO OCCUR WITHOUT NOTIFICATION AND WRITTEN ORDER TO FOLLOW VENTRICULAR FLUSHING PROTOCOL</p> <p>2. Charge RN validated as competent in flushing ventricular catheters are only allowed to follow this protocol</p> <p>3. Obtain physician order to initiate Ventricular Flushing Protocol</p> <p>4. Perform hand hygiene</p> <p>5. Draw up 1.5 cc of preservative-free sterile saline in a 3cc syringe</p> <p>6. Apply mask and sterile gloves</p> <p>7. Cleanse injection port/stopcock closest to the insertion site on the ventriculostomy drainage system for 1 minute with alcohol swab and allow to completely air dry keeping stopcock aseptically prepared</p> <p>8. Luer lock syringe into the injection port/stopcock maintaining aseptic technique and close stopcock off to the drainage system (open to the patient)</p> <p>9. Inject the preservative-free sterile saline gently. If resistance is met, DO NOT force flush and notify physician immediately</p> <p>10. DO NOT aspirate since this may pull brain tissue back into the catheter</p> <p>11. Turn stopcock back open to drainage system and observe for the return of CSF drainage and waveform.</p> <p><i>There is no need to inform the Neurosurgeon if interventions are successful in restoring CSF drainage and appropriate waveform</i></p> <p>12. If there is not a return of CSF and/or waveform, wait 30 minutes and repeat steps 4-11</p> <p>13. If no restoration of CSF drainage or waveform is attained after flushing the catheter a second time, call Neurosurgeon immediately to report findings</p>	5,6,7	A, B, D			
1	A			5,6	A, B, C, D			
1	A			5,6	A, B, C, D			
1	A			5,6	A, B, C, D			

I testify that I am knowledgeable to perform the tasks outlined above as a result of training, experience or competency validation. I understand that additional training may be required for those areas in which the objective was not met. I also understand that this form will be retained by my supervisor and that I may review it at any time.

Employee Signature

Date

Validator Signature

Date