

FILED DATE JUN 20 2013

Department of Health

By: Angel Sandoval
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF NURSING

IN RE: THE PETITION
FOR DECLARATORY
STATEMENT OF
EUNICE JONES-WILLS

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 in Tampa, Florida on June 6, 2013, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A) filed on behalf of EUNICE JONES-WILLS (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 Weekly.
2. Petitioner, EUNICE JONES-WILLS did not provide a license number.
3. Petitioner currently performs automated digital single view chest x-rays for the purpose of screening for pulmonary tuberculosis.
4. Petitioner ask whether it is within the scope of Chapter 464, Florida Statutes, for nurses to perform this task.

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.

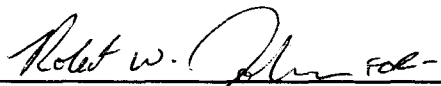
2. The petition filed in this cause is not in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

3. The purpose of a declaratory statement is to select a proper course of action. Approval or disapproval of conduct that has already occurred is properly denied. *Novick v. Dept. of Health, Board of Medicine*, 816 So. 2d 1237 (Fla. 5th DCA 2002).

WHEREFORE, the petition of EUNICE JONES-WILLS is denied.

DONE AND ORDERED this 19th day of June
, 2013.

BOARD OF NURSING



Joe R. Baker, Jr., Executive Director
for Ann-Lynn Denker, PhD, ARNP
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 Petitioner EUNICE JONES-WILLS, 1430 SW 164th Avenue, Pembroke Pines FL 33027, this 20th day of June
, 2013.



Deputy Agency Clerk

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TO: Cassandra G. Pasley, BSN, JD, Chief
Bureau of Health Care Practitioner Regulation

FROM: Joe Baker, Jr., Executive Director
Florida Board of Nursing

DATE: June 12, 2013

RE: Delegation of Authority

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During my absence on Thursday, June 13, 2013, through Wednesday, June 19, 2013, the following managers are delegated authority for the board office:

6/13	William Spooner	Program Ops Administrator
6/14-17	Robert Johnson	Program Ops Administrator
6/18	Mr. Spooner	
6/19	Mr. Johnson	

Thank you.

JBjr/ms

1. Petition for Declaratory Statement Before the Florida Board of Nursing

2. Eunice Jones-Wills

1430 SW 164th Ave

Pembroke Pines, FL 33027

954-517-0560 (h)

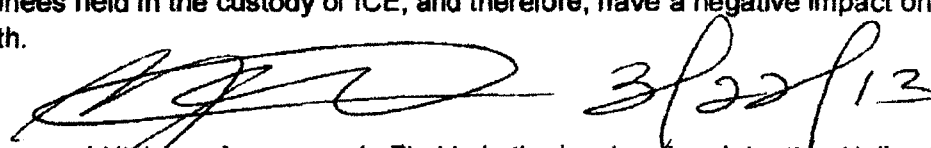
305-207-2121 (w)

305-207-2196 (f)

3. Nurse Practice Act, 464 Florida Statute, or by the Board of Nursing (BON) Rules, 64B-9 Florida Administrative Code – there is nothing listed in either area related to this situation of nurses taking automated digital single view (posterior/anterior) chest x-rays for the purpose of screening detainees held in the custody of Immigration and Customs Enforcement (ICE) for pulmonary tuberculosis (please also reference Florida Statutes and Constitution for Radiological Personnel Certification 468.302(6)b) which states federal work is exempt from certification.

4. There is nothing in the nursing rules or statutes that prohibit a nurse from taking such an automated digital chest x-ray which is why I am seeking a declaratory statement from the BON. If nurses are unable to take these limited automated digital chest x-rays to screen for tuberculosis, this would negatively impact me as a nurse, would potentially negatively impact the detainees in our care, and would impact the safety of our citizens, detainees held in the custody of ICE, and therefore, have a negative impact on public health.

5.


Background History: As a nurse in Florida in the immigration detention / jail setting, I (along with all RNs and LPNs perform these x-rays with the same training) perform automated digital single view chest x-rays for the sole purpose of screening for pulmonary tuberculosis. This involves simply placing the patient in front of the receptor screening x-ray plate and pushing a button to trigger the automated (computerized) digital image to be obtained. We are trained initially and then receive annual refresher training from our teleradiology provider by a certified American Registry of Radiologic Technologist (ARRT). The detention facility is federal and we do federal work. We receive approximately 20-25 hours of initial training [in the areas of safety: personal, patient and other; radiologic equipment; chest radiologic procedures; and image

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production and evaluation] and then approximately 3-6 hours of annual refresher training.

Florida Statutes and Constitution for Radiological Personnel Certification 468.302(6) states that the requirement for certification does not apply to: (b) A person who is engaged in performing the duties of a radiologic technologist or of a radiologic assistant in his or her employment by a governmental agency of the United States. (This is work for the federal government, Immigration and Customs Enforcement).

The procedure for the digital single view chest x-ray is the same as it would be for taking a digital picture of a wound. The nurse is trained to place protective x-ray shielding for the patient, align the patient against the machine, and then press a button which takes a digital x-ray of the chest only. The digital x-ray machine requires no adjustment based on the patient's weight/body mass. Such adjustments are made automatically by the machine. We perform this task only on adults. Because it is digital, there is very little exposure from radiation (verified in writing by the teleradiology company). There is no discretion on the part of the nurse to modify any of the parameters under which the digital image is obtained. The x-ray image is then sent electronically to be read by a radiologist and returned with the interpretation. To iterate, the nurse does nothing other than apply protective x-ray shielding to the patient, align the patient, and press a button to take the digital x-ray. The nurse does not perform duties of a radiological technologist or assistant.

The Florida State Board of Nursing sent me a response to my inquiry (Is it within the nurses scope of practice to perform these limited digital chest x-rays for the sole purpose of screening for tuberculosis?) stating: "Florida nursing regulations do not list all of the specific tasks, duties or interventions that licensed nurses may or may not perform. Nursing practice is dynamic and responsive to societal need. Florida law and rules require nurses to provide care that is consistent with their education, training, experience and demonstrated competency. I have attached a copy of the scope of practice decision making model that has been developed by Board staff to assist nurses in making scope of practice determinations."

Our situation is dynamic and there is a documented societal need for what we do. As is the case with most nursing practice, nurses are trained (after nursing school) to do additional duties / procedures within their employment. Based on this scope of practice decision making model, it appears to be within the scope of practice and therefore acceptable for a nurse to do the automated digital single view chest x-rays after receiving training and demonstrating competency. The result is that we are providing appropriate, safe patient care.

I am requesting a declarative statement from the Florida Board of Nursing regarding this question:

Under these circumstances and with the background clarification defined as above: Is it within the scope of practice for a nurse (RN and LPN) to take automated digital single view chest x-rays for the purpose of screening for tuberculosis after receiving appropriate training as listed above when engaged in work / duties for the federal government (also considering Florida Statutes and Constitution for Radiological Personnel Certification 468.302(6)b) which states federal work is exempt from certification)? Thank you