



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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August 26, 2011

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Ms. Jay P. Douglas
Executive Director
Virginia Board of Nursing
9960 Mayland Drive, Suite 300
Richmond, VA 23233-1463

RE: 18VAC90-20-10 et seq., Regulations Governing the Practice of Nursing

Dear Ms. Douglas:

I have reviewed the proposed fast-track action on 18VAC90-20-10 *et seq.* in accordance with the Administrative Process Act. The amendment to add failure to report child or elder abuse as required by Virginia law to the grounds for unprofessional conduct is constitutional and in conformity with statutory provisions.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Casway", with a long horizontal flourish extending to the right.

Howard M. Casway
Senior Assistant Attorney General

c: Elaine J. Yeatts, Agency Regulatory Coordinator
Department of Health Professions

BOARD OF NURSING

Failure to report child or elder abuse

Part V

Disciplinary Provisions

18VAC90-20-300. Disciplinary provisions.

A. The board has the authority to deny, revoke or suspend a license or multistate licensure privilege issued, or to otherwise discipline a licensee or holder of a multistate licensure privilege upon proof that the licensee or holder of a multistate licensure privilege has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

1. Fraud or deceit in procuring or maintaining a license means, but shall not be limited to:
 - a. Filing false credentials;
 - b. Falsely representing facts on an application for initial license, reinstatement or renewal of a license; or
 - c. Giving or receiving assistance in the taking of the licensing examination.
2. Unprofessional conduct means, but shall not be limited to:
 - a. Performing acts beyond the limits of the practice of professional or practical nursing as defined in Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia, or as provided by §§ 54.1-2901 and 54.1-2957 of the Code of Virginia;

- b. Assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained;
- c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;
- d. Employing or assigning unqualified persons to perform functions that require a licensed practitioner of nursing;
- e. Falsifying or otherwise altering patient, employer, student, or educational program records, including falsely representing facts on a job application or other employment-related documents;
- f. Abusing, neglecting or abandoning patients or clients;
- g. Practice of a clinical nurse specialist beyond that defined in 18VAC90-20-290;
- h. Representing oneself as or performing acts constituting the practice of a clinical nurse specialist unless so registered by the board;
- i. Delegating nursing tasks to an unlicensed person in violation of the provisions of Part VIII (18VAC90-20-420 et seq.) of this chapter;
- j. Giving to or accepting from a patient or client property or money for any reason other than fee for service or a nominal token of appreciation;
- k. Obtaining money or property of a patient or client by fraud, misrepresentation or duress;
- l. Entering into a relationship with a patient or client that constitutes a professional boundary violation in which the nurse uses his professional position to take advantage of the vulnerability of a patient, a client or his family, to include but not limited to actions that result in personal gain at the expense of the patient or client, a nontherapeutic personal involvement or sexual conduct with a patient or client;

m. Violating state laws relating to the privacy of patient information, including but not limited to § 32.1-127.1:03 of the Code of Virginia;

n. Providing false information to staff or board members in the course of an investigation or proceeding; or

o. Failing to report evidence of child abuse or neglect as required in § 63.2-1509 or elder abuse or neglect as required in § 63.2-1606; or

o. Violating any provision of this chapter.

B. Any sanction imposed on the registered nurse license of a clinical nurse specialist shall have the same effect on the clinical nurse specialist registration.

Certification Statement:

I certify that this regulation is full, true, and correctly dated.

_____ (Signature of certifying official)

Name and title of certifying official: Jay P. Douglas, Executive Director

Name of agency: Board of Nursing, Department of Health Professions

Date: _____