

KENTUCKY BOARD OF NURSING
312 Whittington Parkway, Suite 300
Louisville, Kentucky 40222-5172
<http://kbn.ky.gov>

ADVISORY OPINION STATEMENT

ROLE OF NURSES IN MAINTAINING CONFIDENTIALITY OF PATIENT INFORMATION

The Kentucky Board of Nursing has received multiple inquiries on the role of nurses in the maintenance (use and disclosure) of confidential patient information, and nurse behaviors that would constitute a breach of confidentiality subjecting a nurse to potential disciplinary action by the Board.

The term "confidential patient information" as used in this statement refers to individually identifiable health and personal information, and recognizes a patient's expectation of and right to privacy in the maintenance of this information. Such information would include, but is not limited to: information related to the past, present or future physical or mental health of an individual and treatment; and any information that identifies the individual or in which there is a reasonable basis to believe that the information can be used to identify the individual.

The term "confidentiality" is not used in the *Kentucky Nursing Laws*, Kentucky Revised Statutes (KRS) Chapter 314. The statutes, however, require that a nurse's practice be consistent with nationally published nursing standards of practice, and be performed with reasonable skill and safety.

The *American Nurses Association's Code of Ethics for Nurses*, Provision 3.2, recognizes that nurses have a duty to maintain confidentiality of patient information. "...The standard of nursing practice and the nurse's responsibility to provide quality care require that relevant data be shared with those members of the health care team who have a need to know. Only information pertinent to a patient's treatment and welfare is disclosed, and only to those directly involved with the patient's care. Duties of confidentiality, however, are not absolute and may need to be modified in order to protect the patient, other innocent parties, and in circumstances of mandatory disclosure for public health reasons." (ANA © 2001)

KRS 314.021(2), hold nurses individually responsible and accountable for rendering safe, effective nursing care to patients and for judgments exercised and actions taken in the course of providing care.

As a guide to nurses and employers, the Board advises that a nurse:

1. Is obligated to protect confidential patient information unless required by law to disclose the information,
2. Seeks and releases confidential patient information only when there is a clear and substantial "need to know" basis for the information. A "need to know" basis is one that requires individuals to have information in order to render care or service to a patient, and
3. Discloses confidential patient information to the patient's family members and others only as permitted by the patient.

A nurse whose behavior is inconsistent with the guidelines stated above may be charged with being in violation of KRS 314.091(1)(d) "...negligently or willfully acting in a manner inconsistent with the practice of nursing..." or KRS 314.091(1)(n) "...violated the confidentiality of information or knowledge concerning any patient, except as authorized by law". For example, a nurse who violates state or federal law, such as HIPAA (Health Insurance Portability and Accountability Act), and/or improperly acquires, uses or discloses confidential patient information is subject to potential disciplinary action by the Board.

As with all complaints received by the Board regarding potential violations of the *Kentucky Nursing Laws*, each complaint is considered on a case-by-case basis. The specific facts of each situation are evaluated on an individual basis.

Advisory opinion statements are issued by the Kentucky Board of Nursing as a guideline to licensees who wish to engage in safe nursing practice. As such, an opinion statement is not a regulation of the Board and does not have the force and effect of law.

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