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Legal and Ethical Aspect of Professional Development in Nursing

Umeh Elizabeth Egodu
Student Id:Luc20250625001 Lincoln University Malaysia

Abstract- Permitting a new driver to get behind the wheel of a car requires the driver to know the laws governing driving; however, the laws do not tell the whole story. For example, what is a driver to do when entering an unprotected intersection? What governs the driver's movement into the intersection? How does the driver account for the weather, vehicle, and road condition? What is the driver's knowledge and experience level? Any new driver needs guidance or rules to manage the inherent risks. Inherent risk is also a part of nursing. Patients are ill; medications and treatments have benefits and adverse effects; clinical situations are undetermined, open ended, and highly variable Providing nursing care sometimes feels like the new driver navigating that unprotected intersection. As with the new driver, education and standards provided by laws and regulations designed to protect the public provide guidance in nursing practice. Nursing requires specialized knowledge, skill, and independent decision making. The practice of nursing ivolves behaviour, attitude and judgement, and physical and sensory capabilities in the application of knowledge, skills, and abilities for the benefit of the client. Nursing careers take widely divergent paths – practice focus varies by setting, by types of clients, by different disease, therapeutic approach or level of rehabilitation. Burses work at all points of service in the health care system (sheets, 1996).

Keywords - Nursing practice, Inherent risk, Critical thinking, Clinical judgment, Professional standards.

I. INTRODUCTION

A layperson does not necessarily have access to health professional credentials and he or she does not ordinarily judge whether the care received is delivered according to standards of care. Because health care poses a risk of harm to the public if practiced by professionals who unprepared or incompetent, licensed professionals are governed by laws and regulations designed to minimize the risk.

Additionally, nurses are mobile and sophisticated, and they work in a society that is changing and asymmetrical for consumers. The result is that the risk of harm is inherent in the intimate nature of nursing care. Thus, the state is required to protect its citizens from harm (Sheets, 1996). That protection comes in the form of reasonable laws to regulate occupations such as nursing. Consequently, these laws include standards for education, scope of practice, and discipline of professionals.

Learning Objectives

- Recall the history of nurse practice acts (NPAs)
- Describe the eight elements of an NPA
- Discuss disciplinary action, including grounds and possible actions
- Name the ways that licensure status and board of nursing (BON) actions are communicated to the public
- Identify the purpose of state involvement in the regulation of nursing practice.

Definition

The Nurse Practice Act (NPA) defines the scope of practice specific to registered nurse, a licensed practical nurse, an advanced nurse practitioner and a nurse anesthetist. It represents all laws that regulate a nurse's scope of practice in the state, in which she (or he) is licensed to work. These laws protect patients from harm as well as the rules and regulations for the specific level of a nurse's educational and licensure requirements.

History of Nurse Practice Acts

Before the industrial revolution, individuals could evaluate the quality of services they received. Many communities were small, and everyone knew everyone. Basic needs were met mostly by each family, and when people turned to others, they knew the reputations of those who provided services. At that time, anyone could call themselves a nurse. However, as technology and knowledge advanced, a variety of people and groups began to provide services (Sheets, 1996). Individuals were no longer good arbiters of the quality of a providers or a service.

The progressive Era (1890 - 1920) in the United States was wellspring of innovative ideas and industrialization. The era saw advancements in science, urbanization, education and law, which in turn led to remarkable social, economic and political reform; however, it was the confluence of these factors that led to the modernization of the professions and the idea of professional regulation and licensing (Alexander, 2017).

Regulation implies government intervention to accomplish an end beneficial to its citizens. Because the United States constitution does not include provisions to regulate nursing, the responsibility falls to the states. Under a state's police powers, it has the authority to make laws to maintain public order, health, safety, and welfare (Guido, 2010). In addition to the state's need to protect the public, nursing leaders wanted to: legitimize the profession in the eyes of the public, limit the number of people nurses , improve educational standards in schools of nursing (Penn Nursing Science, 2012) .

The first nurse registration law was enacted in 1903 in North Carolina, and it was written to do just that – protect the title of nurse and improve the practice of nursing. Developing nursing examination and issuing licenses was entrusted to the North Carolina Board of Nursing (North Carolina Nursing History, 2017). New Jersey, New York, and Virginia passed registration laws later that same year. These early acts did not define the practice of nursing; however, in 1938, New York defined a scope of practice for nursing (NCSBN, 2010). By the 1970s, all states required licensure for registered and practical nurses.

Advanced practice nurses can be traced to the Civil War, when nurses assisted with anesthesia services during surgery (Hamric, Spross, & Hanson, 2005). Advanced practice registered nurse (APRN) roles and specialization have continued to this day, as has the evolution of formal scope of practice language within legislative statues.

Nurse's Guide to Action

How could a law function as a guide to action if almost no one knows it (Howard, 2011). The laws and regulations for the nursing profession can only function properly if nurses know the current laws and regulations governing practice in their state. Law governing individual heath care providers is derived from legislative action. Whereas a state constitution forms the framework for state governments, legislatures enact laws that grant specific authority to regulatory agencies. For example, a state legislature enacts an NPA to regulate nursing and delegates authority to the state boards of nursing (BONs) to enforce the NPA. The mission of purpose of the BON is to protect the public. State legislatures delegate many enforcement activities to state administrative agencies. This delegation of regulatory authority allows the legislature to use the expertise of the administrative agencies in the implementation of statues.

All states and U.S territories have an NPA and a set of regulations or rules that must be considered together. The broad nature of the NPA is insufficient to provide the complete guidance for the nursing profession. Therefore, each state develops rules or regulation that seeks to clarify or make the NPA more specific. Regulations and rules must be

consistent with the NPA and cannot extend beyond it. These regulations and rules undergo a process of public review before enactment (NCSBN, 2011a; Ridenour & Santa Anna, 2012). Once enacted, regulations and rules have the full force and effort of law.

Functions of Nurse Practice Act (Npa)

- It protects citizen's rights otherwise called processional regulation.
- It established standard and codes of ethics for practitioners at different levels of expertise.

Importance of Nursing Practice (Npa)

It serves as a right granted by a State to protect those who need nursing care its guidelines NPA and its rules provide safe parameters within which to work, as well as protect patients from unprofessional and unsafe nursing practice. The act is a dynamic document that evolves and is updated or amended as changes in scope of practice occur. The laws of the nursing profession can only function properly if nurses know the current laws governing practice in their state. Ignorance of the law is never an excuse.

Specificity of Nurse Practice Act

- Definitions
- Authority, power and composition of a BON
- Educational program standards
- Standards and scope of nursing practice
- Types of titles and licenses
- Protection of titles
- Requirements for licensure
- Grounds for disciplinary action, other violations and possible remedies.

Specific NPA and regulations may be located on the BON website. Additionally, the NCSBN Nurse Practice Act tool that provides links to each state's NPA and regulations. The NPA is found as chapters in the state law or state statute. Regulations are found in the state administrative code. Additionally, at least 18 BONs have created Nurse Practice Acts/ Jurisprudence online, self-paced continuing education courses (NCSBN Learning Extension, 2017).

Definitions

Terms or phrases used in statutes must be clear and unambiguous for the intent of a law to be useful to legislators and citizens. A law does not need to define terms that are commonly understood; however, definitions are often included to avoid ambiguity about word meanings. For example, encumbered, reinstatement, and reactivation are often defined in NPAs. An encumbered license is defined as a license with current discipline, conditions, or reinstatement refers to resistance of a license following disciplinary action, whereas reactivation is a reissuance not related to disciplinary action (NCSBN, 2012a).

Authority, power, and composition of a BON

The NPA grants authority to regulate the practice of nursing and the enforcement of law to an administrative agency or BON, which is charged with maintaining the balance between the rights of the nurse to practice nursing and the responsibility to protect the public health, safety, and welfare of its citizens (Brous, 2012). The membership and qualifications of the BON, terms of office, meetings, and election of officers are specified in the NPA. The BON is usually composed of registered nurses (RNs), licensed practical/vocational nurses (LPN/VNs), advanced practice nurses, and members representing the public.

How BON membership is constituted depends on state statute. Some states give the governor authority to appoint members to the BON after reviewing suggestions from professional nursing organizations. Others states required nominations from professionals organizations with appointment by the director or head of the regulatory agency. Only in north Carolina are BON members elected by the general public. In still others states, the legislature appoints public members (Brent, 2012). The BON typically hires an executive officer, who has the authority to staff the office with nurses, attorneys, investigators and administrative staff.

Typically, the powers and duties of BONs include:

- Making, adopting, amending, repealing and enforcing rules
- Setting nursing education standards

- Setting fees for licensure
- Performing criminal background checks
- Licensing qualified applicants
- Maintaining database of licenses
- Ensuring continuing competence
- Developing nursing standards of practice
- Collecting and analyzing data
- Implementing discipline process
- Regulating registered nurses
- Regulating unlicensed assistive personnel
- Hiring BON employees

Educational program standards

Most U.S. BONs set standards for prelicensure nursing educational programs and clinical learning experiences and approve such programs that meet requirement of the NPA. These standards are reflected in the rules that accompany the NPA. The prelicensure program standards include accreditation, curriculum specifics, administrator and faculty qualifications, continuing approval, and approval of new, or withdrawal of approved, nursing education programs.

Specific curriculum rules often include necessary standards of evidence – based clinical judgement, skill in clinical management; biological, physical, social and behavioural science requirements; professional responsibilities; legal and ethical issues, patient safety; and best practices of nursing.

Standards and scope of Nursing Practice

Nursing care is both directed and evaluated by the NPA and regulations/rules. The standards and scope of nursing practice within an NPA are aligned with the nursing process. For example, comprehensive nursing assessment based on biological, psychological, and social aspects of the patient's condition; collaboration with the health care team; and patient-centered health care plans, including goals and nursing interventions, can all be language within the NPA. Further standards include decision making and critical thinking in the execution of independent nursing strategies, provision of care as ordered or prescribed by authorized health care providers, evaluation of intervention, development of teaching plans, delegation of nursing intervention, and advocacy for the patient. Rules are often more specific and inclusive than the act. The NPA may require safe practice, whereas the rules may specify a plan for safe practice, requiring orientation and training for competence when encountering new equipment and technology of unfamiliar care situations; communication and consultation with other health team members regarding patient concerns and special needs, status, or changes; response or lack of response to interventions; and significant changes in patient condition (NCSBN, 2012a, 2012b).

The NPA typically identifies delegating and assigning nursing intervention to implement the plan of care as within an RN's scope of practice (NCSBN, 2012a). the rules, however, spell out the RN's responsibility to organize, manage, and supervise the practice of nursing. Indeed, the rules can delineate the specific steps for effective delegation by an RN as ensuring:-

Unlicensed assistive personnel have the education, legal authority, and demonstrated competency to perform the delegated task.

Task are consistent with unlicensed assistive personnel's job description

Task can be safely performed according to clear, exact, and unchanging direction.

Results of the task are reasonably predictable

Tasks do not require assessment, interpretation, or independent decision making

Patient and circumstance are such that delegation of the task poses minimal risk to the patient.

Consequences of performing the task improperly are not life threatening

RNs provide clear directions and guidelines regarding the task (NCSBN, 2012b).

Title and licensure

NPA language generally includes a statement regarding the title of RN and LPN/VN. By specifying that the title of RN is "given to an individual intended to practice nursing" and LPN/VN is given to an individual licensed to practice practical/vocational nursing" the NPA protects these titles from being used by unauthorized persons and thereby protects the public (NCSBN, 2012a). Each state's NPA also includes statements regarding examination for licensure as RNs and LPN/VNs, including frequency and requisite education before examination and re-

examination. Additional requirements of licensure by examination typically include.

- Application and fee
- Graduation from an approved pre-licensure program or a program that meets criteria comparable to those established by the state.
- Passage of the professional examination
- Attestation of no report of substance abuse in the last 5 years
- Verification of no report of actions taken or initiated against a professional license, registration, or certification.
- attestation of no report of acts or omissions that are grounds for disciplinary action as specified in the NPA.

The majority of jurisdictions include criminal background checks as an additional requirement for licensure (NCSBN, 2012c).

Further requirements are also included in NPAs for licensure by examination of internationally educated applicants, licensure by endorsement, as well as licensure renewals, reactivation and continuing education. Endorsement is an approval process for a nurse who is licensed in another state. Obtaining licensure by endorsement often includes pre-licensure requirements and verification of licensure status from the state where the nurse obtained licensure by examination (NCSBN, 2012a).

Although statutory language varies from state to state regarding the licensure of APRNs, most states recognize clinical nurse specialist, nurse midewife, nurse practitioner, and registered nurse anesthetist as APRN roles and required certification by a national nurse certification organization. Education and specific scope of practice for APRNs varies from state to state.

Grounds for disciplinary Action, violations, Statute of limitations, possible remedies, and reciprocal discipline

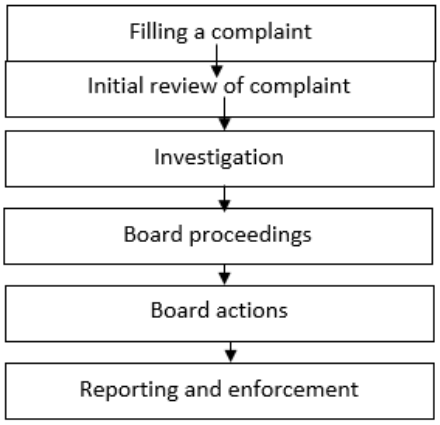
The majority of nurses are competent and caring individuals who provide a satisfactory level of care; however, when a nurse deviates from the standard of care or commits an error, a complaint may be filed with the BON. The BON, through its statutory authority specified in the NPA, is responsible for reviewing and acting on complaints. A BON can take formal action only if it finds sufficient basis that the nurse violated the NPA or regulations. Each case varies and needs to be considered on its own merits (Brous, NCSBN, 2012d).

Since BONs take disciplinary action in order to protect the public by ensuring that only properly qualified and ethical individuals practice nursing, this public safety objectives is not time-limited. Therefore, in the absence of a specific statute to the contrary, statutes of limitations are inapplicable to BON license revocation and other disciplinary proceedings (NCSBN, 2017b).

Complaints about nursing care are often grouped into the following categories;

- Practice – related: breakdowns or errors during aspects of the nursing process (Wade, 2015)
- Drug –related: mishandling, misappropriation, or misuse of controlled substances
- Boundary violation: nontherapeutic relationships formed between a nurse and a client in which the nurse derives a benefit at the client's expense (NCSBN, 2009).
- Social misconduct: inappropriate physical or sexual contact with a client.

An overview of the disciplinary process from receipt of complaint to resolution Board of nursing complaint process



- Abuse: maltreatment of clients that is physically, mentally, or emotionally harmful (Russell & Wade, 2015)
- Fraud: misrepresentation of the truth for gain or profit (usually related to credentials, time, or payment)
- Positive criminal background checks: detection of reportable criminal conduct as defined by statute (NCSBN, 2011b, 2012e, Russell & Beaver, 2013; Russell, 2016).

If a substance use disorder to suspected from the evidence, some BONs may offer the nurse a non-disciplinary alternative – to – discipline program. These programs are monitoring programs, not treatment program. The possibility of avoiding the public notoriety of discipline can be a driving factor in breaking through the nurse's denial of substance use disorder and movement to a program that will assist in retaining her or his license.

These programs refer nurses for evaluation and treatment, monitor the nurse's compliance with treatment and recovery recommendations, monitor abstinence from drug or alcohol use, and monitor their practice upon return to work. Alternative-to-discipline programs aim to return nurses to practice while protecting the public. Various models of alternative-to-discipline programs exist, and their use varies among BONs (NCSBN, 2017c). Some programs provide services via the BON, a contracting agency, a BON special committee, a peer-assistance program of a professional association, or a peer-assistance employee program (NCSBN, 2012f).

Some states have incorporated an alternative-to-discipline programs for practice-related complaints (NCSBN, 2016). These programs seek to provide patient safety through timely education and oversight (Holm & Emrich, 2015). This type of program shifts the focus to improving practice and professional responsibility. To participate in a practice-related alternative-to-discipline program, the practice by the nurse must not pose a threat to patient safety. These programs vary by state. For all other grounds, the final decision reached by the BON is based on the findings of an investigation and the results of the board proceedings. The language used to describe the types of actions available to BONs varies according to each state's statute.

Although terminology may differ, board action affects the nurse's licensure status and ability to practice nursing in the state taking action. BON actions may include the following:

Fine or civil penalty

Referral to an alternative-to-discipline program for practice monitoring and recovery support for those with drug- or alcohol-dependence or some other mental or physical condition

Public reprimand or censure for minor violation of the NPA, often with no restrictions on license.

Imposition of requirements for monitoring, remediation, education, or other provision tailored to the particular situation.

Limitation or restriction of one or more aspects of practice, such as probation with limits on role, setting, activities, or hours worked

Separation from practice for a period (suspension) or loss of license (revocation or voluntary surrender)

Other state-specific remedies (NCSBN, 2012g).

An attempt to evade disciplinary action merely by fleeting the state does not protect the public. Therefore, a state board of nursing is well within its legitimate authority to take action against a license on the basis of another state's disciplinary action that implicate the individual's ongoing ability and likelihood to practice professionally and safely. This reciprocal or retained jurisdiction action serves to assist the BON to fulfill the legislature's charge to protect the public (NCSBN, 2017b).

Being Informed About Your Npa

Ignorance of the law is never an excuse! The NPA and state regulations are not resources one can study in a pre-licensure nursing education program and then put aside. The act and the regulations are dynamic documents that evolve and are update or amended as changes in law or rules are made: Inherent in our current healthcare system are changes which relate to demographic changes (such as the aging of the "baby boomers"), advances in technology; decreasing healthcare dollars; and advances in evidence-based healthcare procedures, practices and techniques; and many others societal and environmental factors (NCSBN, 2012h).

State BONs are resources for the NPA and regulations. Links to NPAs are available on most state BON websites. Some BONs attempt to provide new information to nurses via their website or newsletter (Tedford, 2011). For example, the Virginia BON posts a list of frequently asked questions to help nurses navigate the various aspects of licensure and posts announcements regarding practice or licensing changes on their homepage (Virginia Board of Nursing, 2017). Use the Find your Nurse Practice Act tool (NCSBN, 2017a) or take your jurisdiction's Nurse practice Act/jurisprudence online, self-paced continuing education course (NCSBN Learning Extension, 2017).

The state's duty to protect those who receive nursing care is the basis for a nursing license. That license is an authorization or permission from state government to practice nursing. The guidelines within the state NPA and the state nursing regulations provide the framework for safe, competent nursing practice. All nurses have a duty to understand their NPA and regulations and to keep up with ongoing changes as this dynamic document evolves and the scope of practice expands. The guidelines of the NPA and the regulations provide safe parameters within which to work and protect patients from unprofessional and unsafe nursing practice (Brent, 2012, Mathes & Reifsnyder, 2014). More than 100 years ago, state governments established BONs to protect the public's health and welfare by overseeing and ensuring the safe practice of nursing. Today, BONs' continue their duty, but the law cannot function as a guide to action if almost no one knows about it. "To maintain one's license in good standing and continue practicing, nurses must understand that rights are always accompanied by responsibilities" (Brous, 2012). It is your responsibility to know your state's NPA and rules before you enter that unprotected intersection of nursing care.

The Regulation of Nursing in Nigeria

The law regulates the practice of nursing in various ways. One of the key ways is through the establishment of a professional regulatory council. This establishes nursing as a self-regulating profession in Nigeria which operates under the umbrella of the law; laying the legal foundation for the entry requirements for nursing and establishing professional standards of conduct.

The power to make law to regulate professional is vested by the constitution of the Federal Republic of Nigeria in the National Assembly exclusively. This power has been exercised to enact the nursing and midwifery council Act. (Nursing and midwifery Council Act, 2004). The act amongst other things, establishes the Nursing and Midwifery Council, the professional council which regulates entry into nursing profession in Nigeria. It is a parastatal of the Federal ministry of Health and is headed by a Registrar.

The council is composed of a chairman, who shall be appointed by the Minister of Health, the head of the Nursing services in a Federal Ministry of Health; eight persons, four of whom shall be the heads of the Nursing services in State Ministry of Health and two heads of Nursing services in the any of the four health zones in rotation among the States comprised in each health zone for three years at a time; four persons who shall be tutors in appropriate nursing, public health, psychiatry and midwifery training institutions in Nigeria to serve on rotation among the health zones for three years at a time; two persons to represent the Nursing and midwifery Association; one person who is adviser on secondary education; two persons to represent the public interest; and two persons to represent the universities offering degree programmes in nursing on rotation, for three years; and one registered medical practitioner who shall be a qualified gynecologist and obstetrician to serve for three years.

The composition of the council, requires at least two adjustments. First, the need to ensure that states are part of the Council is recognized in the appointing of heads of Nursing services of several states. This may, however, need to be reviewed, given that four states constitutes a significant minorities where Nigeria currently has thirty-six states (as opposed to less than twenty when the Act was first passed in 1979). Secondly, there is no requirement for nurses in the private sector to be represented on the council. The

private sector provides a significant amount of care in the Nigeria health landscape. It is important that their voice be represented on the council so that nurses in that sector become part of the regulatory process and not only remain in the capacity of being regulated.

The Act confers on the Council the responsibility of determining the standards of knowledge and skill to be attained by persons who wish to join the nursing and midwifery profession. Further, the Council is responsible for reviewing those standards as and when necessary. This function allows the council to regulate entry into the profession. In this respect, the Act also confers on the council the responsibility of maintaining a register of persons who wish to enter the profession. These persons would have to comply with the standards set out by the council in order to have their names entered into the register including the requirement that nurses and midwives must pass through specific training, be of good character, and be in good physical condition. The Registrar, who also acts as the secretary of the Council, is in charge of maintaining the register. The council accredits nursing education in universities and schools of nursing around the country. A list of approved schools is provided on the council's website. Failure to pass through an accredited program will result in non-registration of persons who passed through such program by the council. The council specifies the minimum standards for nursing programs in the country. The Nursing Regulations and the Midwifery Regulations, subsidiary legislation made under the Act, provide the requirements for training nurses and midwives in Nigeria. Only a registered nurse is permitted to use the initials RN. In practice, after examinations set by th council are passed, registration takes place, and a license is issued to the successful candidate. Such license renewable every 3 years, permits the registered nurse to practice the profession after registration by the council.

Moreover, the council is given the broad power to regulate and control the practice of the profession. In pursuance of its powers to regulate, the council has developed the code of professional conduct. The code requires nurses to provide care with integrity and to place patients at the center. Accompanying the power to regulate conducts is the Council's responsibility to maintain discipline amongst the members of the professions. The Nursing and Midwifery Discipline Tribunal is established under the Act to provide discipline to erring members of the profession.

The quorum is five members. The Chief Justice of Nigeria provides the rules of procedure of the Tribunal. The work of the Tribunal is proceeded by investigations by the supervisory Authority, which consists of the chief nursing officer of a state and any committee set up to supervise nurse in a State. It is the responsibility of the supervisory authority to report cases of misconduct and nurses convicted of offences under the law to the disciplinary Tribunal. Where a registered nurse has been convicted of an offence under the law, or has been found to have committed an infamous act in a professional respect, or is found to have been frequently registered, the Tribunal has several course of action – from the lesser penalty of remind, to suspension and to the grace penalty of being stuck off the register. While the Act does not address these, the rules of fair hearing provide by the constitution of the Federal Republic of Nigeria and addressed in jurisprudence on medial law arising from the hearings of the Medical and Dental Practitioners Disciplinary Tribunal which adjudicates matters relating to medical doctors and dental practitioners, would also be applicable here.

The power of self-regulation, granted to professionals, ensures that the specific professions re able to discipline erring members within the umbrella of law. When used appropriately and effectively, this power encourages continued trust in a profession. Proper exercise of this duty will help manage cases of negligence, anecdotes of which abound in Nigeria. There is very little data in the public space about how well the council has utilized this power. From anecdotal evidence, however, not the public space about how well the council has utilized this power. From anecdotal evidence, however, not many people are aware of this Tribunal. Interestingly, a dichotomy persists in the status of the Discipline Tribunal as opposed to the Medical and Dental Council of Nigeria Disciplinary Tribunal.

An appeal against a decision of the disciplinary Tribunal goes to the High Court. The latter Tribunal is given the status of a High Court in Nigeria and appeals go straight from the Tribunal to the Court of Appeal. This underscores the higher status accorded in law to medical practitioners and on the surface could be argued to be unfair to the nursing profession. It is not clear on what weight and impact of doctors' work with regard to patient. At the very least, it underscores the lesser status of the nursing profession in the eyes of the law. This is a matter that requires a re-consideration in light of the importance of nurse in the quality of care provided to patients.

Offences over which nurses can be penalized under the Act include absence from duty which is not a criminal offence by which may lead to suspension for three months. Criminal offences include practicing as a registered nurse or midwife without being registered as such, employing an unregistered person, providing training that is unauthorized by the council. (cheluchi, 2016).

The code of conduct and the Law

The code of conduct established by the Nursing and Midwifery Council encapsulates the conduct expected of members of the profession. The code of conduct is a professional code which combines concepts deriving from ethics, law, and professional reputation requirements. While the law often deals with basic, minimum standards and obligations and caries sanctions for non-compliance, ethics may be described as systematic rules or principles that govern good and right conduct and may go beyond the minimum standards of law and not carry legal sanctions. Professional code are essential to professions because they impose an added layer of obligations in recognition of the responsibility, trust, confidence and esteem attributed to professions by society. Furthermore, some of the ethical dilemmas that nurses and other professionals face must first be tackled through the lenses of professionals codes. In the words of Epstein and Turner, "An effective ethical code for nursing practice must provide guidance on managing ethical problems that arise at the societal level, the organizational level, and the clinical level. (Bern and Martha 2015).

The code of conduct is a key part of the regulation of nurses along with disciplinary processes when there is non-compliance. The code, like many professional codes, establishes a minimum ethical standard, is often broadly directional rather than aimed to solve specific cases or activities, and is drafted by members of the profession, who are in the best position to know what it requires to provide the needed standard of care.

From a legal perspective, the code of conduct has legal implications. Developed under powers conferred on the Council by the Act, the code of conduct is subsidiary legislation and thus indirect force of law. It therefore articulates the professional ethics as well as the legal obligations nurses in his or her capacity as a nursing professional and would be a key instrument in determining the level of care and competency required to be exhibited by the nurse. Amongst other things, the code requires nurses to provide care without discrimination, to respect the constitution of the Federal Republic of Nigeria. The code also addresses such matters as negligence, the need to obtain informed consent, to maintain confidentiality. These duties are well recognized in Nigeria's jurisprudence, although most of the reported cases are cases dealing with doctors rather than nurses. These matters are also addressed in Nigerian legislation and jurisprudence, and ideally these should work seamlessly with the code of conduct. Below are the provisions of the code of conduct alongside Nigerian law and jurisprudence, addressing areas of concurrence and divergence and the impact of these on the regulations of nursing profession.

The duty of Non-Discrimination

The first professional duty required in the code of conduct is the duty to refrain from discrimination on various grounds. The nursing professional is required to provide care to all without reference to age, religion, ethnicity, race, nationality, gender political inclination, health or social economics status. This is in accord with the right to freedom of discrimination which all Nigerians should enjoy by virtue of the fundamental right enshrined in the constitution. More inclusive, open-ended language which would include a phrase such as "and any other grounds"

would have been more helpful. For example, a prostitute can be discriminated against on the basis of the kind of employment she holds. Health status, for example HIV positive status or Hepatitis B positive status, is another ground of discrimination which may be practiced by unethical nursing professionals.

In any event, the HIV and AIDS Anti-Discrimination Act prohibits discrimination on the grounds of HIV positive status. The Act States: "It is an offence to discriminate against any person on the basis of their real or perceived HIV status by a) denying or removing from such person any treatment, medication or any supporting or enabling facility for their functioning in society; b) refusal to accept and offer treatment of HIV and AIDS does not exist in the health facility." Nurses are expected to comply with the law in this respect, therefore, and avoid discrimination against persons on the basis of perceived or real HIV positive status. But HIV status is not the only ground that is not covered by the Code. Other grounds such as employment and other disease conditions remain unprotected from discrimination by virtue of the wording of the code of the conduct. It is hoped therefore, that future revisions of the Code will take this into account.

Duty to avoid Negligence

Negligence involves failure, perhaps out of carelessness or recklessness, to act in a manner in which a reasonable person is expected to act under similar circumstances demand. Negligence occurs when one person who had a duty of care to another breaches that duty and by so doing causes that other person to suffer harm. To break it down, the elements of negligence include the existence of a relationship, in this case, nurse/patient relationship; a duty of care, thus the patient cannot claim in negligence against every nurse in the facility but against the nurses directly in charge of his/her care; a breach of that duty when the nurse fails to exhibit the standard of skill and care the law requires of him.

The determination of what precisely is the standard is one of the prime functions of the court. Generally speaking, the standard of care depends upon the nurse's position and experience. Therefore, a higher standard would be generally of a matron than of a junior nurse. Finally, a resulting harm must have been suffered as a direct or foreseeable consequence of the breach – There must be harm, otherwise a negligent act is not actionable. It is the occurrence of damage, which entitles the patient to sue in negligence. Even if a nurse has been careless or has acted in a manner which even a layman might consider negligence, this will not give any right to an action against the nurse. The patient's claim is for compensation for what he has suffered from these negligence conduct is only relevant so far as it was the cause of the patient's suffering. Nurses must therefore show due care and diligence in the course of their employment and exhibit the level of care required of a professional with their training.

The case of Olowu v The Nigerian Navy is instructive. In that case, a doctor was found negligent when he failed to attend to a pregnant woman in labour who had a previous history of complication. The doctor failed to attend to the woman in time and her womb ruptured, she suffered extensive damage to her uterus and she lost the baby. He was found liable by a court martial and was demoted in rank. He brought an action to reverse the decision of the court marital. The action failed. This case illustrates not only the long-lasting effects of negligence but also the potential adverse impact on employer/ employee relationship. This is particularly serious since the employer may also be sued and be found vicariously liable. Nurses therefore have a duty to perform their functions with care to prevent harm to the patient, but also reduce detriment to their employers. Grounds for negligence may include failure to keep adequate records or to safeguard existing records; failure to use due care in carrying out one's duties; non-disclosure of material information; lack of professional knowledge and skill; failure to consult with appropriate bodies and persons such as failure to report to a doctor when necessary. Failure to comply with professionals rules and standards and code of conduct may also be considered negligence where it results in harm.

There are not many Nigerian cases on negligence that have been brought against nurses. They have mostly been brought against doctors or hospitals. For example, in Igbokwe v University College

Hospital, a doctor instructed a nurse to keep an eye on a mental patient. The nurse failed to do so. The patient fell from the floor and died. The action was brought against the teaching hospital where the incident occurred. Still the same principles would apply to nurses. As more people begin to understand the law, and become aware of their rights nurses could begin to become targets of litigation. Negligence may also be a criminal offence where the extent of the negligence can be classified as gross negligence.

Duty of informed consent

The code of conduct also addresses matters that are well covered in Nigerian Jurisprudence such as informed consent. It requires that Nurses are required by the Code of present information in a manner that is easily understood and to provide information that will enable a patient make an informed choice about whether or not to consent to treatment. It requires nurses to presume that every patient is legally competent until proven otherwise and that legally competent patients can make decisions for themselves even if this results in harm to themselves. In this respect, the Supreme court of Nigeria in Okonkwo v. medical and Dental Practitioners Disciplinary Tribunal held that consent must be obtained from an adult of sound mind prior to treatment. Failure to do so would constitute a breach of the fundamental right to privacy. As required by law, the consent must be competent, that is, it must be given by someone who has capacity to do so – an adult of sound mind, or a guardian of the minor to be treated or an appropriate guardian for the mentally ill. The code of conduct prescribes 18 as the age of capacity. This is in line with the definition of a child under the Child Rights Act where a child is defined as person under the age of 18. The consent must also be free, that is, not provided under duress. It must also be informed, that is, it must contain all the material information, be communicated in language that can be understood by patient, be communicated clearly, contain information about all the material, direct and foreseeable risks to treatment. The National health Act, federal legislation on health, also provides similarly that a health professional must obtain the informed consent of the patient.

However, the code goes on to advocate respect for a patient's decision to refuse a health care intervention even where such refusal may result in harm to themselves or even death. This aligns with the decision in Okonkwo v medical and dental Practitioners Disciplinary Council where a Jehovah's witness was held to be competent to refuse blood transfusion, which refusal led to her death of a foetus. In such a case, the right recourse would be to get an order of court. It must be noted that under Nigeria law, a foetus is considered a life worthy of protection by law. Abortion is a criminal offence. Furthermore, Nigerian jurisprudence does not allow the parent to make a decision that may affect the life and safety of a child in an adverse way. For example, in Esanubor v. Faweya, the Court of Appeal held that a mother could not refuse blood transfusion that would save the life of her infant. English Jurisprudence has dealt with similar cases which indicate that the courts would lean in favour of saving the foetus, despite the fact that the law recognizes the woman's right to terminate a pregnancy. For example, in the case of Re S. (adult refusal of treatment), where a 30 years old woman refused to submit to emergency caesarean section on religious grounds, the court granted an order, allowing the hospital to carry out the procedure in order to save the life of the baby. A subsequent decision St. George's Healthcare NHS Trust v S (Guidelines); R v Collins ex p. S has however reiterated the position that the autonomy rights of the woman take precedence over the rights of the baby. This is, however, very different from the situation in Nigeria where there is no right to terminate a pregnancy. Would Nigerian courts require pregnant women that are Jehovah's witnesses to receive blood transfusion where the life of the foetus is at stake regardless of the privacy right of the mother? In Nigeria, the uptake of treatment procedures such as caesarean section which are sometimes required to save the life of the mother is relatively low, in part due to cultural and religious factors, contributing to Nigeria's high maternal mortality rates. Would a woman in need of such procedure whose baby would most likely die who refused such procedure be compelled to have

such a procedure? The jurisprudence on this is not clear.

The code Conduct stated that the recourse in these cases is to resort to court as occurred in Esanubor v. Faweya for an order. In the event of an emergency, it seems appropriate to argue that procedure may be provided and the court approached for ratification. The code of conduct specifies that emergency care may be provided without the consent of the patient. Further clarification of this aspect of the code in light of Nigeria's peculiar context and challenges may help provide guidance to the courts on this matter.

In regard to informed consent for the mentally ill, the code of conduct specifically recognizes that even the mentally ill are not exempt from the principle of informed consent. Unfortunately, the code does not specifically define the exact parameters of consent for nursing mentally ill patients such as explicit recognition of periods of lucidity and the impact on consent. It merely states that nurses must ensure "that when client and patients are detained under statutory powers (e.g mental health Act), you know the circumstance and safeguards needed for providing treatment and care without consent. Thus, in situations of involuntary commitment, nurses are to seek guidance from the law. At the present time, there remains a vacuum in this area of law because the Lunacy Act is outdated and its provisions on consent do not accord with international human rights standards.

Duty of Confidentiality

The Code of Conduct also recognizes that a patient has the right to confidentiality and that a nurse must keep confidential patient's information. Thus it states that a nurse is to "Keep information and records of the client confidential except in consultation with other members of the health team to come up with suitable intervention strategies or in compliance with a court ruling or for protecting the consumer and the public from danger".

The ethical values of autonomy or respect for persons as well as the more utilitarian concept of recognizing the adverse impact of not providing confidentiality which may lead to non-uptake of treatment, nurses not getting adequate information to make appropriate treatment decision all lay the foundation for the importance of confidentiality. Communication is key to effective patient care. Patients are likely to feel more comfortable providing information regularly in the course of work, some of such confidential information may even extend outside clinical care, such as information about family relationships or financial situations. Such information must be kept confidential by the nurse. Unauthorized disclosure of information destroys the confidence of the patient in the health system, and is a violation of the law. The National Health Act, the Lagos State Health Sector Reform Law, the HIV and AIDS Anti-Discrimination Act, amongst other extant legislation contain similar provisions. The Code of Conduct does not state the parameters of this duty or the expectations. However, the National Health Act provides the exceptions including where the patient consent in writing, where the law or a court requires it, and on public health grounds for example in the case of infectious diseases or disclosure to the health facility or other providers for the purposes of treatment.

In respect of confidentiality, context is an important consideration. In Nigeria, the culture elevates family and many patients come into consultations with family members and are supported by family members while receiving treatment. The nurse is therefore expected to understand the context as well as her professional obligation and draw the delicate balance required. It is important in this respect to remember the requirement of the Code that nursing professionals should "consider the views, culture and Beliefs of the client/patient and his family in the design and implementation of his care/treatment regimen". The requirement for confidentiality while important should take into account the context to better address the needs of the patient. This may require actively seeking the consent of the patient, where possible, to share information with family members where necessary.

Duty to maintain good Attitudes

Other requirements of the Code of Conduct relate to the attitude of nursing professionals. In this respect, the Code provides amongst other things that nurses

are to desist from fighting or stealing, be courteous, honest and resourceful. They are also required to be punctual to duty and hand over, patients and equipment physically after duty, to switch off telephone/handsets when providing care to client/patients and when teaching in the classroom and reject any form of gift, favour or gratification which might appear to have undue influence or advantage towards obtaining preferential treatment. While these may seem like common sense, my visits to various hospitals indicate the need to continue to reinforce these attributes of basic courtesy and decency.

It is commonly acknowledged that some nurses, particularly in the public hospitals, are often rude, curt, dismissive of, and indifferent to patients. This is a serious challenge that requires enforcement of the Code beginning with education. The attitudes of health workers generally, and nurses in particular, is essential to the uptake of treatment. A rude and condescending attitude could prevent a patient from sharing useful information that may help the health team figure out the problem and solve it. It also affects confidence in the health system, perception of the quality of care received and patient satisfaction, all of which are crucial matters in promoting health-seeking behaviour such as early recourse to treatment.

Emergency Treatment

The Code of Conduct provides that a nurse must provide emergency treatment. It states that nurses must "provide care in emergencies where treatment is necessary to preserve life without clients/patients consent, if they are unable to give it, provided that you can demonstrate that you are acting in their best interests."

This is in conformity with the National health Act, which also provides that: a health care provider shall not refuse a person emergency medical treatment for any reason whatsoever. However, the National Health Act also makes it offense, for which the health care provider would be liable on conviction to a fine of 100,000 naira or to imprisonment for 6 months or both. This is a key requirement for health professionals, including nursing professionals because stories abound of persons who are refused emergency treatment in Nigeria for failure to pay prior to treatment, including stroke and heart attack victims and other persons with sudden illnesses, accident victims who die preventable deaths, sexually violated women who are turned away for lack of payment and patients who suffered gunshot wounds for failure to provide police reports. There are questions about such treatment should be funded; should the health facility fund it or would the government fund it from the emergency treatment funding portion of five present of the Basic Healthcare Provision Fund, an intervention fund to be founded by the Federal Government under section 11 of the National Health Act. While these matters are being sorted out, however, it is important to understand that nurses have a professional and legal obligation to provide emergency treatment to persons who come into their health facility for such treatment.

Other Legal Requirements

Outside of the provisions of the Code of Conduct, there are other legal requirement which govern the conduct of a nursing professionals. These include:

Best Interests of Children – The child Right Law 2007 of Lagos State requires that all persons, including health professionals like nurses must act always in the best interest of the child.

Professional Indemnity – The National Health Insurance Act requires that nurses, like other professionals take out professional indemnity to cover any potential legal liabilities in the course of doing their work. This is usually to be the responsibility of doctors but a clear reading of the law indicates that this compulsory obligation attaches to all health professionals.

Protections for Nurses: Some Recommendations

It is important to prescribe standards of conduct required of nursing professionals. In my view, it is crucial also to ensure that nursing professionals are granted certain protections by law policy in the course of providing care to patients. This will not only provide them with optimal conditions in which to carry out their work, it would equip them with the requisite skills necessary for caring for persons who

find themselves in situations of vulnerability. In this regard, the following are essential; education, encouraging professional indemnity insurance, addressing inter-professional rivalry and lesser professional status, taking bullying and revising the code of Conduct.

Education on Legal and Ethical Obligations of Nurses

A certain standard and level of education is required to become a registered nurse in Nigeria. To a gain more skills, particular more current skill and knowledge, continuing education is vital. However beyond the technical skills required, the ethics and law of nursing are also key. Much of the discussion above has indicated that law and ethics play important roles in the regulation of nurses and in key areas such as patient safety and effective communication. It is essential that on-going education in these matters be provided to nursing professionals in the public and private sectors to encourage better attitudes and conduct, which will ultimately benefit the system. On-going trainings and capacity building efforts should include practical case studies and the impact of ethics and law for greater impact. The code of conduct should specifically require continuing trainings in bioethics and law during prequalification training as well as post-qualification.

Encouraging professional indemnity insurance

It is important to educate nurses on the importance of taking out professional indemnity insurance to insure against such potential steps. At the present time, professional indemnity insurance is taken to be responsibility of doctors and health facilities. However, this is not the intendment of the law. With increasing awareness of patients' rights, it is not implausible that more litigation may be undertaken as health professionals in general, and nurses in particular, with potential adverse effects on health facilities.

Addressing inter-professional rivalry and lesser professional status

A mere visit to many health facilities in Nigeria would make it clear that nursing professionals are frequently looked upon as lesser mortals in the healthcare team. Such lower status can be attributed to general society, while some are attributable to the law (which, for example, places the disciplinary tribunal of nurses on a lower pedestal). Yet such a visit would convince one that nurses are vital to the quality of care received by a patient. Active steps must be taken by the government to re-orient mind-sets in this regard. Other health care professionals, particularly doctors, must make effort to re-orient their profession towards a collaborative approach to health care where a team, regardless of the professionals who heads it, is in fact a team and not an autocratic hierarchy.

Developing appropriate complaints processes

It is important the appropriate complaints processes and channels are developed for nursing professionals who have complaints about their treatment at work. These complaints channels must be established at all facilities and extend beyond facilities. They must also have safeguards and mechanisms for protecting whistleblowers. In my work, which includes training health professionals, I have found that his is surprisingly often not readily available, particularly to younger nursing professionals. This is work that the Nursing and midwifery Council must take up and firmly establish.

Awareness of Protections available under the Law

Alongside education to facilitate greater knowledge of their legal and ethical obligation, nursing professionals must also be made aware of the protections that the law offers them. Some of such protections as found in the National Health Act. This Act provides for conscientious objection by health professionals such as nursing professionals. This entitles the nurse to refuse to engage in the provision of services that are against one's conscience by reason of their faith or on other grounds.

The legislation also provides that health professionals (including nursing professionals) are entitled to protection from injury, damage to property, or disease transmission. Thus health facilities are expected to put in place policies and protocols to prevent or minimize the transmission of diseases to health workers. The Act also provides

protection from bullying by patient. It states that a nurse may refuse treatment to a patient who is verbally, physically or sexually abusive. In addition, it provides that a health worker will be entitled to indemnity for any damage or injury suffered as a result of providing services in the health facilities. This also aligns with the provisions of the employee compensation Act 2010.

Revising the Code of Conduct

It is not clear what the process of making the Code is or how long the Code has been in place. It is crucial to clarify these areas as well as to update the Code from time to time. The current Code, while it address many key points, does not yet reflect recent legislation, nor does it provide guidance in certain important areas such as mental health. Matters such as assisted reproductive technologies and surrogacy and the nurse's role are not addressed even though these are becoming more relevant in Nigeria. It does not address important matters such as conscientious objection, whistle-blowing, complaints mechanisms and procedures, insurance requirements including the expectations of nurses from the health establishments in which they work and industrial action. Industrial actions are particularly problematic, with increasing numbers of strikes by health professionals in Nigeria and the attendant consequences to the health of patients. What is the moral obligation of nursing professionals in these situations?

Conscientious objection is highlighted in the National health Act but it is not fully addressed. The Code of Conduct could help flesh out the details; when can a nurse plead conscientious objection? What are limits of such objection? What should be the response of the health facility? Violent and abusive behaviour in the work place is another essential matter. The Code of Conduct merely states that nurses should not fight. But what if they are threatened or even physically assaulted, what should be their recourse? In respect of whistle-blowing, the nurse is required by the Code of Conduct not to participate in unethical procedures by a health care team. But it does not go forward to provide any directions about what a nurse is to do in that situation: make an application stating one's conscientious objections? Whistle blow? To whom?

It will be recalled that a nurse died during the Ebola crisis in Nigeria in 2004 amongst other health professionals. Nurses take personal risks in the course of caring for patients. What are the limits of personal risks that they can undertake in different situations, including situations of public health emergencies? These and many other issues remain outstanding and should be addressed in a revised and updated Code of Conduct.

The Nursing and Midwifery Council, Act of Nigeria

Every profession, which is important to the society, must be regulated and controlled. Regulation and control involve the streamlining of the method of entry into and the maintenance of rules of standard governing a particular profession.

The practice of nursing and midwifery in Nigeria is regulated and controlled by the provisions of the Nursing and Midwifery (Registration etc.) Act Cap 332 Law of the Federation of Nigeria 1990, hereinafter referred to as the Principal Act, as amended by the Nursing and Midwifery (Registration, etc) Amendment Decree No. 83 of 1992, hereinafter referred to as the Amending Act.

The amending Act amends the Principal Act by inserting a new section 23, which provides among other things, for a registered nurse or Midwife to carry on such nursing and Midwifery care as provided in the training curriculum prescribed and approved by the Nursing and Midwifery Council.

The Principal Act (as amended) contains a total of 27 sections and is divided into 4 parts. Part 1 deals with the establishment of the Nursing and Midwifery Council of Nigeria. Part 2 is concerned with Registers and Registration. Part 3 relates to professional discipline, while Part 4 in a miscellaneous and supplementary provision.

The nursing and Midwifery registration (Etc) Act

The Act provides for the following

Nursing and Midwifery Council of Nigeria (The Council)

The Council is established by the Act and charged with the following responsibilities

Determing what standards of knowledge and skill are to be attained by persons seeking to become members of the profession of nursing and Midwifery and reviewing those standards from time to time as circumstances may require

Securing in accordance with the provisions of the Act the establishment and maintenance of a register of persons entitled to practice the profession and the publication from time to time of the list of those persons;

Regulating and controlling the practice of the profession in all its ramifications;

Maintaining in accordance with the Act, of discipline within the profession; and

Performing the other functions conferred upon the Council by the Act.

Composition

The Council consists of the following members;

Chairman

The head of the Nursing Services in the Federal Ministry of Health

Eight persons, four of whom must be the heads of nursing services in a state Ministry of Health and two heads of nursing services in any of the University Teaching Hospital and two nurses from Faculties of Nursing in the Universities representing each of the four zones in rotation among States comprised in each health zone three years at a time.

Four persons who shall be tutors in appropriate nursing, public health, psychiatry and Midwifery training institutions in Nigeria to serve on rotation among the health zones for three years at a time.

Two persons to represent the Nursing and Midwifery Association

One person who is an adviser on secondary education

Two persons to represent the public interest, and

Two persons to represent the Universities offering degree programmes in nursing on rotation for three years;

One registered medical practitioner who shall be a qualified gynecologist and obstetrician to serve for three years.

The secretary General

The Secretary to the Council is the Chief executive officer of the Council. He is responsible for the day to day running of the affairs of the Council. He keeps records and conducts the correspondence of the council and performs such other function as the Council may from time to time direct. He is also the registrar of the Council.

Registers and Registration

In his capacity as the Registrar, the Secretary General prepares and maintains, in accordance with rules made by the Council under section 6 of the Act a register of the names, addresses and approves qualifications, and of such other particulars as maybe specified, of all persons who are entitled in accordance with the provisions of the Act to be registered as nurses or midwives and who apply in the specified manner to be so registered. The Registrar also has power to delete names of persons who have died or otherwise ceased from being members from the register.

Registration of Nurses

Subject to any restriction upon registration otherwise imposed by the Act, the holder of:

Any qualification of a general nature specified in part B of the second schedule to the Act,

Any qualification of a specialized nature specified in part B of the second schedule to the Act, shall be entitled to registration as a nurse in the appropriate part of the general register maintained pursuant to section 6 (2) of the Act.

The qualification mentioned in part B of second schedule include:

Valid certificate of competency in specialized branch of both or either nursing and public helath issued by the Council under the Act.

Certificate of competence in a specialized branch of both or either nursing and public health, valid where issued, and in the opinion of the Council conformable in training requirements to the standard as prescribed by the Council under the Act; and

Certificate of competence in a specialized branch of both or either nursing and public health, valid where issued, and subject to additional experience or examination or both the holders of which would be

deemed by the Council to have reached the standard prescribed by it under the Act.
Registration of Midwives
The Council may register a midwife
If he/she holds a valid certificate as prescribed under part B of the second schedule to the Act, or
Is exempted from examination as the holder of a qualification granted outside Nigeria and for the time being accepted by the Council.
Is of good character

Special Provisions as to Midwives Trained outside Nigeria

By Section 10 of the Act, where any person completed a course or training as a midwife not acceptable to the Council, without further proof of competency, the Council may require that person to undergo additional training in a teaching hospital or institution or under any scheme of training in Nigeria approved for the purposes of Section 6 of the Act. Upon completion of the prescribed further training to the satisfaction of the Council such person may apply for registration under the Act and be registered accordingly in the appropriate register.

Establishment of State Nursing and Midwifery Committee

Under Section 13 of the Act, a Committee known as the State Nursing and Midwifery Committee is to be constituted by the Commissioner for health in each State. The committee is to be under the general direction and control of the Council.

The Committee in collaboration with the Chief Nursing Officer is a State may exercise within a State such functions as may be conferred upon it by the Act.

Composition

The Committee is composed of
The chairman (professional head of Ministry of Health)
The professional head of the nursing service of the state concerned
Two medical officers engaged in teaching of nurses
One matron
One health sister
One nurse tutor
Two nurses representing the mission hospitals
One person representing the ministry of education of the State concerned
Two registered nurses nominated by the supervising authority of the area conerened
One person representing specialized branches of nursing where organized in the area.
Powers
A State nursing and Midwifery committee may unless otherwise directed:
Organize from time to time in-service training and refresher courses for qualified nurses;
Conduct enquires on behalf of the Council, and from time to time make recommendations and give advice to the council in respect of matters coming to the state nursing and Midwifery Committee's notice
Perform other functions as the Council may, from time to time, direct or require.

Approval of training institutions

Under the provisions of Section 14 of the Act, the Council may on the recommendation of the State Nursing and Midwifery Committee approve hospitals and other similar institution in Nigeria which are organized by the Government of the federation or of a State or by Approval of such recommendation is however subject to the attainment by the hospital or other similar institution of the standards prescribed by the Council for training under the Act.

Supervision of instructions and examinations leading to approved qualifications

By section 15 (1) of the Act, a Visitor is to be appointed by the council, whose duty is to report to the council on:
The sufficiency of the instruction given to persons attending approved courses of training at institutions visited by him
The sufficiency of any examination attended by him; and
Any other matters relating to the institutions on which the Council may, either generally or in particular case request him to resport

Supervisory Authority

The Chief Nursing Officer of the State is the supervisory authority over nurses and midwives within the state concerned

Duties

To work in co-operation with the State Nursing and Midwifery Committee and generally to exercise supervisions as directed by the Council

If any particular case so requires, to investigate charges of malpractice, negligence, misconduct or contravention of instructions given by the Council to the State Nursing and Midwifery Committee

To report any matter to the Council and in any particular case, to recommend to the Council that the matter so reported be dealt with by the tribunal under the Act.

To inform the Council as soon as possible of the name of any nurse or midwife convicted of an offence

The disciplinary Tribunal

By Section 17 of the Act, a disciplinary tribunal known as the Nurses and Midwives Disciplinary Tribunal (hereinafter referred to as the tribunal) is established.

Composition

The tribunal consists of the chairman of the Council and seven other members of the Council to be appointed by the Council. The supervisory authority established under S. 16 (2) for the purposes of section 17 shall act as an investigating authority charged with the following duties;

Conducting a preliminary investigation into any case where it is alleged that a person registered has misbehaved in his capacity as a nurse or midwife or should for any reason be the subject of proceedings before the tribunal; and

Decide whether the cases should be referred to the tribunal

Penalties for unprofessional conduct

Where a person registered as a nurses of midwife;

Is convicted by any court in Nigeria or elsewhere of a criminal offence, or

Is judged by the tribunal to be guilty of infamous conduct in a professional way; or

Has his or her name fraudulently registered, the tribunal may direct as follows:

Reprimanding that person, or

ordering the registrar to strike his/her name off the relevant part of the register, or

Suspend him from practice by ordering him not to engage in practice as a nurse or midwife for such period not exceeding six months as may be specified in the direction.

It may be noted that a person whose name is removed from the Register in pursuance of a direction of the tribunal shall not be entitled to be registered again except in pursuance of a direction in that behalf given by the tribunal on the application of that person.

Avoidance of Duty

Where a registered nurse or midwife, employed in any capacity in a hospital, nursing home or institution of any nature whatsoever established to provide medical care for the sick:

Without reasonable cause of excuse (the proof of which shall lie on him/her), leaves his place of employment, or

Likewise without reasonable cause or excuse, persuades or attempts to persuade any registered nurse or midwife to leave any such place or employment, shall be reported to the Council and the Council shall enquire into any such report, and if the case reported is proved to its satisfaction the Council may take such action by way of suspensions of the offender from practice for a period not exceeding three months or by way of reprimand, as the circumstances may require.

Offences

The following conduct may amount to offences under the Act

Impersonation

Employing unqualified nurse or midwife

Establishing private nursing home or maternity by unqualified person

Making false statements with a view to effecting registration

Falsification in register by staff of the Council

Punishment

For offences committed by an individual, punishment is N1,000.00 and N50.00 each day for continuing offence. Where offence is committed by

a body corporate, director and manager or secretary shall be deemed guilty.

Regulations

Pursuant of section 25 of the Act, the Nurses regulation and the midwives regulations have been made in order to give effect to the provisions of the Act.

i. Nurses Regulation

This regulations controls and specifies such issues as:
Approval for training hospitals
Training and examination of nurses
Powers and functions of the State Nursing and Midwifery Committees
Removal and restoration of names from and to register and
The wearing of uniform and badges

Midwives Regulation

This regulation specifies such issues as:
Condition for registration
Restoration to register of name removed
Duties of midwives in relation to patient and children
Circumstances in which medical help must be sent for.

Duties of Midwives

In relation of Patients: regulation 27 itemizes the duties of a midwife in relation to patient as follows:
A midwife in charge of a case of labour shall not leave the patient without giving an address at which she can be reached without delay
After commencement of the second stage of labour, the midwife shall stay with the patient until the expulsion of the placenta and membranes and for as long as a time as may be necessary
Where the labour is abnormal, or there is threatened danger, the midwife shall send for a doctor or have a doctor sent for and she shall await the arrival of the doctor and faithfully carry out his instructions.
Where a qualified medical practioner is not available, the midwife shall not incur any liability by remaining on duty and doing the best she can for her patient.

A midwife shall not, except in a case of grave emergency, undertake operative work or give treatment which is outside her provience as a midwife
Where a midwife in a case of grave emergency, undertakes such work or gives such treatment she shall forthwith inform the local supervisory authority.
In relation to a child
In the case of a child born apparently dead, the midwife shall carry out the methods of resuscitation, which have been taught her.
On the birth of a child, which is in danger of death, the midwife shall inform one of the parents of the child's condition and any abnormality reported to the parent shall be recorded in the register of cases.
The midwife shall ensure that a child delivered by her is duly registered ub the register of births kept by the local government.

Circumstances in which medical help must be sent for Regulation 39 provides that in all cases of illness of the patient or child, or of any abnormality occurring during pregnancy, labour or puerperium a midwife shall forthwith obtain the assistance of a registered medical practitioner where such is available.

Setting up private Nursing/ maternity Home, By section 23 of the Act (as amended) a nurse or midwife registered under the Act is permitted to carry on such nursing or midwifery care as approved by the council.

However, a registered nurse or midwife can not set up a private maternity or nursing home, unless he or she has:

Spent at least 5 years (as in other professions) in a recognized health establishment as a Registered nurse or midwife after registration with the Council,
Complied with all the conditions laid down by the ministry or health of the State concerned for the establishment of such maternity home, and
Demonstrated unequivocally that there is prompt access to a practicing obstetrician and gynecologist or an experienced medical practitioner at all times, who has legal responsibility for attending to any emergencies. (Medical practice and the law in Nigeria, 1979).

Summary

The State's duty to protect those who receive nursing care is the basis for a nursing license. That license is an authorization of permission from state government to practice nursing. The guidelines within the state nurse practice act and the State nursing regulations provide the framework for safe, competent nursing practice. All nurses have a duty to understand their nurse practice act and regulations, and to keep up with ongoing changes as this dynamic document evolves and the scope of practice expands.

II. CONCLUSION

Nursing has come a long way since the days of Florence Nightingale, and this ever-evolving dynamic profession has seen tremendous changes over the years. The Nurse Practice Act (NPA) is one of these changes enacted by the legislature of each state to protect patients' safety and to guide the scope of practice for all levels of nurses. Any change in the scope of nursing practice will be updated in the NPA.

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