

**DEPARTMENT OF HEALTH SERVICES  
STATE OF CONNECTICUT  
BUREAU OF HEALTH SYSTEM REGULATION  
DIVISION OF MEDICAL QUALITY ASSURANCE**

**PROPOSED DECLARATORY RULING ON REGISTERED NURSES AS  
FIRST ASSISTANT IN THE OPERATING ROOM**

November 24, 1987 by David J. Pavis, Hearing Officer

In September of 1985, Gerard Sava, a neurosurgeon practicing at Stamford Hospital, wrote to the Connecticut Medical Examining Board requesting that the Board approve the practice of using registered nurses as first assistant (RNFA) to the surgeon in the operating room. In March of 1986, Betty Chickering, on behalf of the Association of Operating Room Nurses (AORN), wrote to Commissioner Douglas Lloyd seeking a declaratory ruling on the RNFA issue. The Department granted this request because any complaint that might be filed against a nurse who acted in the RNFA role would be investigated by the Department and adjudicated by the Connecticut Board of Examiners for Nursing.

On 24 November 1987 I conducted a public hearing on the RNFA issue. The purpose of this hearing was to allow all interested parties an opportunity to submit written and oral testimony on the question of whether or not the RNFA role is within the scope of practice of nursing in Connecticut. The authority for holding a hearing for the purpose of issuing a declaratory ruling is found in Connecticut General Statutes Section 4-176 and in Section 19-2a-1 et. seq. of the Regulations of Connecticut State Agencies. I have reviewed the record and exhibits from the hearing and researched the involved statutes and legal precedents to determine this issue. I conclude that:

1. The registered nurse in Connecticut who acts as a first assistant in the operating room does function within the scope of nursing as defined in Connecticut General Statutes Section 20-87a if;
2. The nurse is competent to practice as a RNFA as measured by education, training and experience and if;
3. The surgeon provides supervision appropriate to the complexity of the surgery and appropriate to the education, training and experience of the RNFA.

PARTIES

The request for a declaratory ruling to resolve the question of the nurse as RNFA came from Betty Chickering. Ten people spoke at the public hearing. The speakers represented AORN, the Connecticut Nurses Association and the Connecticut Association of Nurse Anesthetists. The transcript of the public hearing is part of the

official record of this declaratory ruling. The last pages of the hearing transcript contain a list of the speakers and a list of the documents that were made a part of the record at the hearing. The exhibits are appended and should be considered to be part of this declaratory ruling.

Historically, the nurse has functioned in the operating room in two roles; as scrub or circulating nurse. These roles are ancillary to the function of the surgeon or surgeons in that the nurses in the operating room facilitate the operation but do not participate directly in the surgery. The roles of the nurse are:

Circulating Nurse – Manages the operating room function outside of the sterile field. The circulating nurse typically interacts with the scrub nurse by bringing equipment and supplies to the personnel in the sterile field and by receiving tissue samples or other items from the staff within the sterile field.

Scrub Nurse – Manages the operating room functions in the same fashion as the circulating nurse but within the sterile field. The scrub nurse typically controls the instruments, sutures and sponges; and supplies same to the surgeon or surgeons.

The moving parties in this case have requested a declaratory ruling to define a new and evolving role of the nurse in the operating room, that of the nurse as first assistant in the operating room. Many operations require that a person assist the surgeon in the actual performance of the surgery. The person who assists the surgeon, the first assistant, is usually another surgeon. Frequently this role is filled by a resident physician or medical student; this is especially true in teaching hospitals that have residency programs. Physician assistants or physician associates have also been utilized as first assistants to the surgeon.

In many hospitals there are no physicians, residents or medical students to fill this first assistant role. In these hospitals the first assistant is usually a nurse or physician assistant/associate. In some instances the assistant is a trained person who is not a nurse or physician assistant (Exhibit 12). This ruling will only address the registered nurse as first assistant.

## STATUTES

### Connecticut General Statutes Ection 20-81a and 20-9

The Nurse Practice Act, Section 20-87a, provides a definition of nursing:

The practice of nursing by a registered nurse is defined as a the process of diagnosing human responses to actual or potential health problems, providing supportive and restorative care, health counseling and teaching, case finding and referral, collaborating in the implementation of the total health care regimen and

executing the medical regimen under the direction of a licensed physician or dentist (emphasis added).

Connecticut General Statutes Section 20-9 defines who may practice medicine or surgery and also provides several exceptions to the proscription that no person may practice medicine or surgery unless licensed under Section 20-10. The applicable phrase is:

No person shall, for compensation, gain or reward, received or expected, diagnose, treat, operate for or prescribe for any injury, deformity, ailment or disease, actual or imaginary, of another person, nor practice surgery, until he has obtained such as license as provided in section 20-10, and then only in the kind or branch of practice stated in such license; but the provisions of this chapter shall not apply to dentists while practicing dentistry only; ...nor to any person rendering service as a physician's training assistant, a registered nurse, or a licensed practical nurse if such service is rendered under the supervision, control and responsibility of a licensed physician (emphasis added).

In order to answer the question as to whether the RNFA role is within the scope of nursing in Connecticut we must read the above two statutes in concert. The Connecticut Nurse Practice Act distinguishes the independent and dependent roles of the nurse. The registered nurse in Connecticut is an independent practitioner; responsible for her own or his own acts. Only when "executing the medical regimen" is the nurse a dependent practitioner in that the nurse is under the "direction, supervision, control and responsibility" of the physician. The statutes give no guidance as to what duties a nurse may perform nor is there any guidance as to what degree of control or supervision the physician should maintain. Read literally, Section 20-9 gives the nurse a license to practice medicine so long as the physician remains responsible and provides control and supervision.

### Case Law and Other Precedents

In order to avoid the situation of the nurse performing surgery without appropriate supervision, we need to look to other sources of law, besides statute, for guidance as to the appropriate responsibility of the registered nurse. Case law and an opinion of the Attorney General have addressed issues similar to this. The standard of practice in nursing is that the nurse should only undertake to perform tasks or duties for which he or she has the necessary training and experience to perform competently. The responsibility of the physician is to supply supervision, direction and control in proportion to the skill of the nurse and commensurate with the complexity of the medical task being delegated to the nurse. In \_\_\_\_\_ Conn. Op. Atty. Gen. \_\_\_\_\_ (letter to the chairman of the Board of Examiners for Nursing dated 18 October 1976, page 3) Hall v. Hilbun – 466 So 2d. 856.

## FINDINGS OF FACT

### Scope of Practice of the RNFA

Several parties have recommended that certain operative procedures can safely be delegated to the RNFA:

1. Tissue Handling,
2. Suturing,
3. Providing exposure,
4. Using instruments,
5. Providing hemostasis.

Virtually all the witnesses cited these five tasks. Some parties recommended that major surgeries, such as abdominal or chest surgery, should be defined out of the RNFA scope of practice.

### Preparation, Education, Training and Certification of the RNFA

The testimony in this area was not nearly as unitary as in the scope of practice criterion. Two factors can be identified:

1. Each hospital should develop its own standards as to what preparation will be required for the RNFA.
2. Nursing staff, surgical staff and hospital administration should be involved in developing a set of criteria.

The Connecticut Board of Examiners for Nursing is authorized by statute to rule on questions of the scope of nursing practice in Connecticut. If a question about the practice of a nurse in the RNFA role should arise, it will be the responsibility of this Board to resolve the question. A recommendation by the Board of Examiners for Nursing about the scope of practice of nursing should be given great weight. This Board has recommended that certification in perioperative nursing should be a prerequisite to a nurse functioning as an RNFA. Therefore, I adopt this recommendation as part of this ruling along with the recommendation of the Board that all nurses functioning in the RNFA role must maintain certification in perioperative nursing. The Board, in a prior declaratory ruling, has addressed the issue of certification and I will not repeat here any of that ruling. Any person who wants further information should refer to that ruling.

### Medical Supervision of the RNFA

The testimony and exhibits give little guidance on this issue. The hospital nursing and surgical staff must clearly define what degree of supervision the physician is expected to provide. The Connecticut Board of Examiners for Nursing has recommended that the

operating physician be in the same room as the RNFA during the entire operation. Again, as the opinion of the Board is entitled to great weight, I adopt this recommendation.

### RULING

Rather than use this declaratory ruling to promulgate specific rules and requirements that would bind each hospital without regard for differing situations, the Department adopts the standards espoused by the Association of Operating Room Nurses. AORN Journal, December 1980, Vol. 32, No. 6; September 1984, Vol. 40, No 3; and May 1987, Vol. 45, No. 5 (Exhibit No. 11). Should the standards as espoused by the association of operating room nurses be modified by that association, this declaratory ruling should be read to incorporate the standards as so modified by that association. Therefore, the following is adopted as the standard in Connecticut.

#### Scope of Practice

Under the direct and constant supervision of the operating physician:

1. Tissue handling,
2. Providing exposure,
3. Using instruments,
4. Suturing,
5. Providing hemostasis.

#### Qualifications

1. Certification in perioperative nursing,
2. Knowledge and skill in principles of asepsis and infection control,
3. Knowledge of anatomy, physiology and operative technique,
4. Ability to perform CPR.

The majority of states that do allow the RNFA have adopted the AORN standards. Thirty-five states allow the RN to first assist. The Connecticut Chapter of AORN recommends that the AORN model be adopted. The AORN RNFA program should merely be the starting point. Each hospital should tailor the program to its specific situation.

**The above Proposed Declaratory Ruling was adopted as the Final Decision on November 7, 1988 by Hearing Officer David J. Pavis.**