



Nebraska Board of Nursing

ADVISORY OPINION

OPINION: RN & EMTALA
ADOPTED: June 2010
REVISED:
REAFFIRMED:

This Nebraska Board of Nursing advisory opinion is issued in accordance with the Nebraska Nurse Practice Act, [Neb. Rev. Stat. 38-2216 \(2\)](#). As such, this advisory opinion is for informational purposes only and is non-binding. The advisory opinions define acts, which in the opinion of the board, are or are not permitted in the practice of nursing.

RN and EMTALA Medical Screening Exam (MSE)

The Center for Medicare/Medicaid Services (CMS) Emergency Medical Treatment and Labor Act (EMTALA) rules II.A state, "Medical screening exams (MSE) must be conducted by qualified personnel, which may include physicians, nurse practitioners, physician assistants or RNs trained to perform MSEs and acting within the scope of their State Practice Act."

It is the opinion of the Nebraska Board of Nursing that it is within the scope of an RN to perform a medical screening exam (MSE). The RN may perform an MSE if:

1. allowed by individual facility bylaw/policy
2. the facility has approved protocols or algorithms for the RN to utilize in performing the MSE
3. an authorized provider is available for consultation
4. the individual RN has the necessary knowledge, skills and abilities and has demonstrated competency to perform the MSE

It also is the Board's position that the RN completing the MSE is establishing the presence or absence of an emergency medical condition, and is not engaged in making an independent medical diagnosis or developing a medical treatment plan.

It is not within the scope of an LPN to perform an MSE however the LPN may contribute to the assessment by "Collecting basic objective and subjective data from observations, examinations, interviews, and written records. The scope and depth of data collection is consistent with the educational preparation of the LPN". (172 NAC 99.003)

The scope of practice for a licensed nurse is the same regardless of practice setting. The role of the LPN in the emergency department is in accordance with their scope of practice. The LPN practices

dependently at the direction of an RN or licensed practitioner through the application of the nursing process and the execution of diagnostic or therapeutic regimens prescribed by licensed practitioners. LPN practice includes the assumption of responsibilities and accountabilities for the performance of acts within their educational background and utilizing procedures leading to predictable outcomes.

A licensed nurse is accountable to be competent for all nursing care that he/she provides. Competence means the ability of the nurse to apply interpersonal, technical and decision-making skills at the level of knowledge consistent with the prevailing standard for the nursing activity being applied. Accountability also includes acknowledgment of personal limitations in knowledge and skills, and communicating the need for specialized instruction prior to providing any nursing activity.

References

Oregon Board of Nursing. Policy Statement, "Registered Nurse Role in the EMTALA Medical Screening Examination", Adopted February 2005.

South Dakota Board of Nursing. Advisory Opinion, "Performance of Medical Screening Examinations by Registered Nurses". Adopted November 1999.

42 US Code § 1395dd.

42 CFR § 489.24.

Centers for Medicare and Medicaid Services (CMS) "Clarifying Policies Related to the Responsibilities of Medicare-Participating Hospitals in Treating Individuals With Emergency Medical Conditions," September 9, 2003.

42 CFR § 485.618 (d).