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 Emergency Medical Treatment and Labor Act (EMTALA) requires hospitals with emergency departments to provide a Medical Screening Examination (MSE) to any individual who comes to the emergency department and requests such an examination; a request is made on the individual’s behalf; or, a prudent layperson observer would conclude from the individual’s appearance or behavior a need for examination or treatment of a medical condition. In this situation, the hospital has incurred an obligation to provide an appropriate medical screening examination (MSE) for the individual and stabilizing treatment, an appropriate transfer or discharge. The purpose of the MSE is to determine whether or not an Emergency Medical Condition (EMC) exits.

Individuals must be provided with a MSE appropriate to presenting signs and symptoms, as well as the capability and capacity of the hospital. An appropriate MSE can involve a wide spectrum of actions, ranging from a simple process involving only a brief history and physical examination to a complex process that also involves ancillary studies and procedures. The medical record must reflect continued monitoring according to the individual’s needs until it is determined whether or not the individual has an EMC and, if he/she does, until he/she is stabilized or appropriately transferred. There should be evidence of this ongoing monitoring prior to discharge or transfer.

A hospital must formally determine who is qualified to perform the MSE. i.e., a qualified medical person. Those health practitioners designated to perform MSEs are to be identified in the hospital by-laws or in the rules and regulations governing the medical staff following governing body approval. It is not acceptable for the hospital to allow informal personnel appointments that could frequently change. Designating “physician substitutes” for the MSE is acceptable practice, but it recommended that bylaws provide for phone consultation with the supervising physician and also identify the situations in which the supervising physician must come in and see the patient personally. (EMTALA.COM, 2011).
It is the opinion of the Nebraska Board of Nursing that it is within the scope of a Registered Nurse (RN) to perform a MSE. The RN may perform a MSE if:

1. The employing facility has formally identified the RN in bylaws or rules and regulations as a qualified medical person to perform the MSE.
2. The individual RN has the necessary knowledge, skills and abilities and has demonstrated competency to perform the MSE.
3. The facility has approved protocols or algorithms for the RN to utilize in performing the MSE.
4. A physician is available for consultation and capable of physically responding to perform an assessment of the patient on site if needed or requested by the RN.

It also is the Board’s position that the RN completing the MSE is establishing the presence or absence of an EMC, 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 99.003.01).

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

