The American Association of Nurse Attorneys

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TAANA Position Paper on Expert Testimony in Nursing Malpractice Actions

The American Association of Nurse Attorneys (TAANA) is a voluntary, nonprofit professional organization whose members have combined the legal and nursing professions. Established in 1982, its membership is comprised of individuals who hold degrees in both nursing and the law or who have completed the requirements of one profession while actively pursuing a professional degree in the other. TAANA's mission is to provide resources, education and leadership to it members as well to both the medical and legal communities on issues relating to health law and policy. TAANA is committed to educating the public and members of the legal profession about the nature and standards of nursing.

Problem Presented

In a medical malpractice action against a nurse must the standard of nursing care be established by expert testimony from a nurse?

TAANA Position

For the reasons stated below, it is the position of TAANA that, in a nursing malpractice action, where the applicable standard of nursing care is established through expert testimony, that expert must be a nurse.

Discussion

1. **The need for expert testimony**
   Negligence is the failure to use reasonable care. Malpractice is negligence by a professional.[1] Where the alleged negligent act calls for the exercise of expert, medical judgment, the action is one for medical malpractice.[2] A medical malpractice action is not limited to claims against physicians but includes actions against other health care professionals, including nurses.[3] The requisite elements of proof in a medical malpractice case are (1) a deviation or departure from accepted practice and (2) evidence that such departure was a proximate cause of plaintiff's alleged injury.[4] Ordinarily, expert medical opinion evidence is necessary to establish the applicable standard of care and a departure there from.[5] The expert witness in a medical malpractice action must possess the requisite skill, training, knowledge, and experience to insure that the opinion rendered is reliable.[6]

2. **What expert is competent to testify**
   It would seem self-evident that the only expert qualified to render expert, opinion evidence against a health care professional is a member of the same profession. It is well established that only a physician is qualified to render testimony as to the standard of care for a physician.[7] Courts have also held that in many other health care professions only a member of the same profession is qualified to testify as to the standard of care. For example only a podiatrist is competent to testify as to the standard of care for a podiatrist.[8] There have been similar decisions relative to physical therapists[9], chiropractors[10], and audiologists[11].
3. **Establishing the standard of care for nursing**
   Historically, expert testimony by a physician has been routinely admitted into evidence for the purpose of establishing the nursing standard of care.[12] Often, the physician is allowed to testify with almost no other foundation other than the fact the witness is a physician.[13] In 1997, an Illinois appellate court

noted that "from [their] review of out-of-state authority, [they] are unaware of any state that has ever found it reversible error for a physician to testify as to the applicable nursing standard of care."[14]

Some authors have questioned the practice of routinely allowing a physician expert to testify as to nursing malpractice. Armstrong, noting how "surprising" this practice is, in 1987 wrote: "[t]he status of nursing has changed, however, and not only do physicians no longer have the special knowledge required to testify in all cases of nursing malpractice, but their use as experts may create problems that could be avoided by using nurses as experts in most nursing malpractice cases. The inquiry should focus on whether the physician does indeed know the customary practice of nurses regarding the procedure in question. Courts should not assume knowledge because nursing and medicine are two distinct disciplines, albeit with some overlapping functions."[15] Some jurists questioned the practice of allowing physicians to testify as to nursing standards of care. Hon. Justice Johnson, Georgia, in a dissent, noted:

The claim of professional negligence is against a nurse and relates to nursing care; the affidavit is from a physician and relates to the "medical profession generally" not to nursing care, even though the physician asserts that he is familiar with the standard of care of intubated patients. The effect of this statement would be to qualify him as an expert in every profession connected to medicine. In my view, his affidavit is insufficient to make him an expert on the standard of care in the nursing profession… This case presents us with a perfect opportunity to provide meaningful guidance to the bench and bar of Georgia as well as to significantly reduce the amount of litigation over the rule… we should hold that an affidavit to be deemed sufficient…must come from a member of the same profession as the defendant against whom the claim of professional negligence is made.[16]

Across the country courts are beginning to recognize the nurse as a professional distinct from the physician. For example, in New York an appellate court upheld dismissal of a hospital malpractice action where the only expert to testify as to the standard of care for the nurse was an anesthesiologist.[17] In a recent decision, the Supreme Court of Illinois held that a physician, board certified in internal medicine, was not competent to testify as to the standard of care of a nurse.[18] The physician expert testified as to his extensive experience working with doctors and nurses in patient fall protection.[19] Plaintiff attempted to establish liability of the hospital by introducing into evidence the testimony of the physician to establish that the hospital's employee, a nurse, had deviated from applicable nursing standards in preventing the plaintiff from falling specifically in three areas: (1) that the nurse failed to pursue her concern that the patient was a fall risk by failing to notify her supervisor; (2) that the nurse failed to provide "an alternative to the posey vest;" (3) the nurse's failure to properly communicate the patient's condition to the physician.[20] Citing to the Amicus Brief submitted by TAANA, the court noted:

*[as] TAANA persuasively reasons: "A physician, who is not a nurse, is no more qualified to offer expert, opinion testimony as to the standard of care for nurses than a nurse would be to offer an opinion as to the physician standard of care. * * * Certainly, nurses are not permitted to offer expert testimony against a physician based on their observances of physicians or their familiarity with the procedures involved. An operating room nurse, who stands shoulder to shoulder with surgeons every day, would not be permitted to testify as to the standard of care of a surgeon. An endoscopy nurse would not be permitted to testify as to the standard of care of a gastroenterologist performing a Colonoscopy. A labor and delivery nurse would not be permitted to offer expert, opinion testimony as to the standard of care for an obstetrician or even a midwife. Nor would a nurse be permitted to testify that, in her experience, when she calls a physician, he/she usually responds in a certain manner. Such testimony would be, essentially, expert testimony as to the standard of medical care."[21]*

The court went on to note:
Scholars share this reasoning:
"Physicians often have no first-hand knowledge of nursing practice except for observations made in patient care settings. The physician rarely, if ever, teaches in a nursing program nor is a physician responsible for content in nursing texts. In many situations, a physician would not be familiar with the standard of care or with nursing policies and procedures which govern the standard of care. Therefore, a physician's opinions would not be admissible in jurisdictions which hold the expert must be familiar with the standard of care in order to testify as an expert. An example of a common situation which gives rise to allegations of nursing negligence occurs when a nurse fails to follow the institutional 'chain of command' in reporting a patient condition to a physician who subsequently refuses to attend to the patient condition. It is unlikely that a physician would be familiar with the policy and procedure involved in handling such a situation. It is as illogical for physicians to testify on nursing standard of care as it would be for nurses to testify about medical malpractice."[22]

This scholarly insight has spread to litigators:
"Testimony from a physician about the standard of care may be subject to objection because the physician is not a nurse and does not have direct knowledge of nursing standards of care. A physician's statement that he or she often observes nurses and therefore knows what they do may be inadequate."[23]

Beyond scholars and litigators, courts have begun to accept this reasoning. In some jurisdictions, "the physician is no longer permitted to testify about the nursing standard of care since the physician is not a nurse and does not possess direct knowledge of nursing standards."[24] According to one scholar:
"These cases represent a growing recognition on the part of courts that nursing, as a profession, has moved beyond its former dependence on the physician, and into a realm where it must and can legally account for its own professional practices. In doing so, the experts who provide the testimony, and the literature from which their opinions are derived, come from the nursing profession."[25]

4. **Nursing as a profession**
Registered nurses constitute the largest group of health care providers in the United States today.[26] Nursing is a dynamic profession, distinct from the practice of medicine. As the American Nurses Association has noted:
Nursing has many definitions, but the essence of nursing is that nurses combine the art of caring with the science of health care. Nursing places its focus not only on a particular health problem, but on the whole patient and his or her response to treatment…nurses work in many areas but the common thread of nursing is the nursing process – the essential core of how a registered nurse delivers care.[27]

Nursing has evolved into a profession with a distinct body of knowledge, university-based education, specialized practice, standards of practice, a societal contract (Nursing's Social Policy Statement, 2003) and an ethical code (Code of Ethics for Nurses with Interpretive Statements, 2001). Registered nurses are concerned about the availability and accessibility of nursing care to patients, families, communities and populations. Registered nurses and the profession seek to ensure the integrity of nursing practice in all current and future healthcare systems… Nursing is a learned profession built upon a core body of knowledge reflective of its dual components of science and art. Nursing requires judgment and skill based upon principles of the biological, physical, behavioral and social sciences. Nursing is a scientific discipline as well as a profession. Registered nurses employ critical thinking to integrate objective data with knowledge gained from an assessment of the subjective experiences of patients and groups. Registered nurses use this critical thinking process to apply the best available evidence and research

data to the processes of diagnosis and treatment. Nurses continually evaluate quality and effectiveness of nursing practice and seek to optimize outcomes.[28] The ANA goes on to say: "Self regulation by the profession of nursing assures quality of performance, which is the heart of the profession's social contract between the profession of nursing and society."[29] The New York State Nursing Association is unequivocal in its opinion that nursing is a distinct profession which must be defined and its standards established and upheld by nurses:

The New York State Nurses Association has repeatedly emphasized that the nursing profession has the responsibility and authority for determining the nature and scope of nursing practice… the scope of professional nursing practice is dynamic and evolves as: the patterns of human response amenable to nursing intervention evolves; nursing diagnoses are formulated and classified; nursing skills and patterns of intervention are made more explicit and patient outcomes responsive to nursing intervention are evaluated…The nature of nursing practice is that intrinsic characteristic that distinguishes nursing from other health professions. It is the essence of nursing; it is constant and remains unchanging.[30]

As the American Nurses Association has noted:

A registered nurse (RN) is licensed by a state, commonwealth, or territory to practice nursing. Professional licensure of the healthcare professions was established to protect the public safety and authorize the practice of the profession. Requirements for authorization of nursing practice and the performance of certain professional nursing roles vary from jurisdiction to jurisdiction. The registered nurse's experience, education, knowledge, and abilities establish a level of competence… The registered nurse is educated in the art and science of nursing, with the goal of helping individuals and groups attain, maintain, and restore health whenever possible.[31]

Every state requires nurses to complete an accredited nursing program and to pass a national licensing examination prior to practicing as a nurse. Every state has a complex statutory and regulatory scheme including a Nurse Practice Act which defines the practice of nursing in that state and delineates the educational requirements for each branch of nursing practice.[32] As the court noted in Sullivan:

By enacting the Nursing and Advanced Practice Nursing Act, the legislature has set forth a unique licensing and regulatory scheme for the nursing profession. As TAANA observes, under the nursing act, a person with a medical degree, who is licensed to practice medicine, would not meet the qualification for licensure as a registered nurse, nor would that person be competent to sit for the nursing license examination, unless that person completed an accredited program in nursing.[33]

Based on the foregoing it is clear that nursing is a profession, unique, identifiable and autonomous. As a profession, nursing has the authority and responsibility to define its standards of practice. This includes those standards introduced as evidence of the standard of nursing care in the legal arena.

Conclusion

It is clear that the profession of nursing, though closely related to the practice of medicine, is, indeed, distinct with its own licensing scheme, educational requirements, areas of specialization, Code of Ethics, models, theories and contract with society. The standard of care for nurses arises from the very nature and scope of nursing and is derived from the nursing process. The nurse is not a "junior doctor" nor is the nurse a mere "underling" of the physician. To so hold would negate the existence of nursing as a profession and would render the Nurse Practice Acts of every state, commonwealth and territory meaningless. It is unlikely that any physician, unless he/she has completed a nursing program and has practiced as a nurse, can offer competent, reliable expert opinion on these nursing standards. It is unjust and ill advised to allow the medical profession to continue to offer expert, opinion evidence on the standards of care for nurses. This practice undermines the ability of the profession to set its own standards or to define its scope of practice. A nurse could be found liable

for failing to perform to the physician's standard when, in fact, he/she was acting within the scope of his/her own license as determined by professional organizations and state nurse practice acts. At the very least, this practice invites jury confusion and inconsistent verdicts. TAANA believes it is time to clarify the law and to accord to the profession of nursing the recognition, autonomy and respect given to every other health care profession in the United States. The nursing profession and only the nursing profession has the right, duty and responsibility to determine the scope and nature of nursing practice including the standard of care for nurses.

It is the position of The American Association of Nurse Attorneys that the only expert competent to testify as to the standard of care for nurses is a nurse.

[1]Chafin v. Wesley Homes, Inc., 367 S.E.2d 236 (Ga. Ct. App. 1988).
[2]Chafin, supra note 1; Chandler General Hosp., Inc. v. McNorril, 354 S.E.2d 872 (Ga. Ct. App. 1987); Dent v. Memorial Hosp. Of Adel, 509 S.E.2d 908 (Ga. Ct. App. 1998); Bleiler v. Bodnar, 479 N.E.2d 230 (N.Y. 1985); Cantone v. Rosenblum, 186 A.D.2d 167, 587 N.Y.S.2d 743 (N.Y. App. Div. 1992); Leonard v. Providence Hosp., 590 So. 2d 900 (Ala. 1991); Polonsky v. Union Hosp., 418 N.E.2d 620 (Mass. App. Ct. 1981).
[3]Bleiler, supra note 2; Migues v. Sagrera, 620 So. 2d 463 (La. Ct. App. 1993); Fraijo v. Hartland Hosp., 99 Cal. App. 3d 331 (Cal. Ct. App. 1979); Norton v. Argonaut Ins. Co., 144 So. 2d 249 (La. Ct. App. 1962); Holloway v. Northside Hosp., 496 S.E.2d 510 (Ga. Ct. App. 1998).
[4]De Stefano v. Immerman, 188 A.D.2d 448, 591 N.Y.S.2d 47 (N.Y. App. Div. 1992); Barracca v. St. Francis Hosp., 237 A.D.2d 396, 655 N.Y.S.2d 565 (N.Y. App. Div. 1997); Dolan v. Jaeger, 285 A.D.2d 844, 727 N.Y.S.2d 784 (N.Y. App. Div. 2001); Keys v. Mercy Hosp. of New Orleans, 485 S.2d 514 (La. Ct. App. 1986); Capan v. Pollice, 410 A.2d 1282 (Pa. 1980); Erby v. North Mississippi Med. Ctr., 654 So. 2d 495 (Miss. 1995).
[5]Brown v. New York, 47 N.Y.2d 927, 393 N.E.2d 486 (N.Y. 1979); LaMarque v. North Shore University Hosp., 227 A.D.2d 594 (N.Y. App. Div. 1986); Peters v. ABC Ins. Co., 552 So. 2d 430 (La. Ct. App. 1989); Morris v. Childrens Hosp. Med. Ctr., 597 N.E.2d 1110 (Ohio Ct. App. 1991); Berdyck v. Shinde, 613 N.E.2d 1014 (Ohio 1993); Ramage v. Central Ohio Emergency Services, 592 N.E.2d 828 (Ohio 1992); Alef v. Alta Bates Hosp., 6 Cal. Rptr. 2d 900, 904 (Cal. Ct. App. 1992) ("The standard against which the acts of a medical practitioner are to be measured is a matter peculiarly within the knowledge of experts"); Cohen v. Albert Einstein Med. Ctr., 592 A.2d 720, 723 (Pa. Super. Ct. 1991) (holding that "in this medical malpractice action where the events and circumstances were beyond the knowledge of the average lay person, it was necessary that the plaintiff present expert testimony to establish her cause of action"); Sullivan v. Edward Hosp., 806 N.E.2d 645 (Ill. 2004).
[6]LaMarque, supra note 5; McDonald v. Glynn-Brunswick Memorial Hosp., 418 S.E.2d 393 (Ga. Ct. App. 1992); Cagnolatti v. Hightower, 692 So. 2d 1104 (La. Ct. App. 1996); Kirker v. Nicolla, 256 A.D.2d 865, 681 N.Y.S.2d 689 (N.Y. App. Div. 1998) .
[7]Cagnolatti, supra note 6 (neither a nurse nor a pharmacologist could testify as to standard of care of physician); McDonnell v. County of Nassau, 129 Misc. 2d 228, 492 N.Y.S.2d 699 (N.Y. Sup. Ct. Nassau County 1985) (psychologist not permitted to testify as to standard of care of psychiatrist); Dombrowski v. Moore, 299 A.D.2d 949, 752 N.Y.S.2d 183 (N.Y. App. Div. 2002) (nurse could not testify as to standard of care of a physician). In some states, the requirement of expert testimony by a physician to establish a malpractice action against a physician is statutory. See Ohio Rev. Code Ann. 2743.43 (Anderson 2004); Evid. R. 601(D). See also Morris,supra note 5, interpreting Evid. R. 601(D) as precluding a registered nurse from testifying as to the standard of care for a physician. See also Ala. Code 6-5-548 (1975); Fla. Stat. Ann. 766.102 (West 1997).
[8]Botehlo v. Bycura, 320 S.E.2d 59 (S.C. Ct. App. 1984) (holding that an orthopedic surgeon is not qualified to testify as to the standard of care of a podiatrist); Darby v. Cohen, 101 Misc. 2d 516, 421 N.Y.S.2d 337 (N.Y. Sup. Ct. Queens County. 1979) (physician not qualified to testify as to podiatric standard of care); Dolan v. Galluzzo, 396 N.E.2d 13 (Ill. App. Ct. 1979) (holding that an orthopedic surgeon is not competent to testify as to the standard of care of a podiatrist); Craig v. Borcicky, 557 So. 2d 1253 (Ala. 1990) (orthopedic surgeon not allowed to testify as to standard of care of podiatrist); Melville v. Southward, 791 P.2d 383 (Colo. 1990) (orthopedic surgeon not competent to testify as to standard of care of podiatrist); but see Sanford v. Howard, 288 S.E.2d 739 (Ga. Ct. App. 1982) (holding that orthopedic surgeon could testify as to standard of care of podiatrist in case involving surgery to plaintiff's flat feet).
[9]Kirker, supra note 6 (surgeons not qualified to testify as to standard of care for physical therapists).
[10]Toormina v. Goodman, 63 A.D.2d 1018, 406 N.Y.S.2d 350 (N.Y. App. Div. 1978) (physician not allowed to testify as to standard of care for chiropractor); see also Sheppard v. Firth, 334 P.2d 190 (Or. 1959), Morgan v. Hill, 663 S.W.2d 232 (Ky. Ct. App. 1984) (holding that, though neurosurgeon could not testify as to the standard of care of a chiropractor, he could testify that chiropractic manipulation caused injury); but see Stoczynski v. Livermore, 782 P.2d 834 (Colo. Ct. App. 1989) (holding that it was proper to allow osteopathic physician to testify as to the standard of care for a chiropractor where there was testimony that physician had experience in performing manipulations at issue).
[11]DaRonco v. White Plains Hosp. Med. Ctr., 215 A.D.2d 339, 627 N.Y.S.2d 359 (N.Y. App. Div. 1995) (physician not qualified to testify as to standard of care of audiologist).
[12]McMillon v. Durant, 439 S.E.2d 829 (S.C. 1993) (neurosurgeon allowed to testify as to standard of care of a pediatric nurse caring for a child with an ear infection and preexisting shunt); St. Elizabeth Hosp. v. Graham, 883 S.W.2d 433 (Tex. App. 1994) (physician testified as to standard of care for ICU nurse in positioning a patient in a recliner); Alvis v. Henderson Obstetrics, 592 N.E.2d 678 (Ill. App. Ct. 1992) (two obstetricans testified that an R.N. should be able to diagnose a pending breech delivery and notify the doctor in a timely manner); Paris v. Kreitz, 331 S.E.2d 234, 245 (N.C. Ct. App. 1985) (noting that "physicians are clearly acceptable experts with regard to nurses"); Haney v. Alexander, 323 S.E.2d 430 (N.C. Ct. App. 1984) (allowing a cardiologist and an internist to testify as to the standard of care for a nurse in a case where it was alleged that when a nurse called the decedent's treating physician, twice, she failed to convey the patient's vital signs); Crook v. Funk, 447 S.E.2d 60 (Ga. Ct. App. 1994) (holding that physician is competent to testify as to standard of care for nurses because both are members of the medical profession); Howard v. City of Columbus, 466 S.E.2d 51 (Ga. Ct. App. 1995) (holding that a physician is competent to testify as to the standard of care for an LPN); Wingo v. Rockford Memorial Hosp., 686 N.E.2d 722 (Ill. App. Ct. 1997) (allowing a physician to testify as to the standard of care for nurses in reporting changes in a patient's condition to the physician); Goff v. Doctors General Hosp., 333 P.2d 29, 33 (Ca. Ct. App. 1958) (physician competent to testify as to the standard of care for obstetrical nurse where patient was bleeding excessively, nurse had called the physician three times, physician had reassured the nurse the bleeding was normal

and nurse waited another one hour and forty-five minutes before calling the physician a fourth time); King v. State, 728 So. 2d 1027 (La. Ct. App. 1999); Fleming v. Prince George's County, 358 A.2d 892 (Md. 1976) (physician testified nurse should have been more "forceful" in conveying their concerns regarding the patient).
[13]Wingo, supra note 12; see also Goff, supra note 12, at 33 ("surely, a qualified doctor would know what was standard procedure for a nurse to follow"); King, supra note 12, at 1030 ("physicians frequently testify about nursing standards because nurses who perform medical services are subject to the same standard of care and liability as physicians"); Thomas v. Corso v. Miller, 288 A.2d 379 (Md. 1972) (codefendant physician "obviously" competent to testify as to the standard of care for the nurses).
[14]Wingo, supra note 12, at 729 (emphasis added).
[15]Armstrong, Elizabeth J., Nurse Malpractice in North Carolina, 65 N.C. L. REV. 579, 590 (1987); see also Elizabeth W. Beyer & Pamela W. Popp, Nursing Standard of Care in Medical Malpractice Litigation: The Role of The Nurse Expert Witness, 23 J. HEALTH & HOSP. L. 363, 365 (1990).
[16]Tye v. Wilson, 430 S.E.2d 129, 132 (Ga. Ct. App. 1993) (dissent).
[17]Dolan v. Jaeger, 285 A.D.2d 844, 727 N.Y.S.2d 784 (N.Y. App. Div. 2001); see also Estate of Bradley ex. rel. Bradley v. Mariner Health, Inc., 315 F. Supp. 2d 1190 (S.D. Ala. 2004) (wherein neither a nurse practitioner nor a physician were allowed to testify as to the standard of care in a nursing home).
[18]Sullivan, supra note 5.
[19]Id. at 649-650.
[20]Id. at 650.
[21]Id. at 658.
[22]Id. at 658-659 (quoting Elizabeth W. Beyer & Pamela W. Popp, Nursing Standard of Care in Medical Malpractice Litigation: The Role of The Nurse Expert Witness, 23 J. HEALTH & HOSP. L. 363, 365 (1990)).
[23]Id. at 659 (quoting P. Sweeney,Proving Nursing Negligence, 27 TRIAL 34, 36 (May 1991)).
[24]Id. (quoting F. Cavico & N. Cavico,The Nursing Profession in the 1990's: Negligence and Malpractice Liability, 43 CLEV. ST. L. REV. 557, 578 (1995); see Dolan v. Jaeger, 285 A.D.2d 844, 846, 727 N.Y.S.2d 784, 786-87 (N.Y. App. Div. 2001) (upholding trial court's dismissal of nursing malpractice action where physician anesthesiologist was only expert to testify as tonurse's standard of care);Vassey v. Burch, 45 N.C. App. 222, 226, 262 S.E.2d 865, 867 ("Although the affidavit of [the physician] may be sufficient to establish the accepted standard of medical care for a doctor in his office, it does not establish the standard of care for anurse in a hospital"),rev'd on other grounds, 301 N.C. 68, 269 S.E.2d 137 (N.C. 1980)).
[25]Id. (quoting C. Kehoe,Contemporary Nursing Roles and Legal Accountability: The Challenge of Nursing Malpractice for the Law Librarian, 79 LAW LIBR. J. 419, 428-29 (1987)).
[26]Cruzan v. Missouri Dept of Health, Amici Curiae brief submitted by The American Association of Nurse Attorneys.
[27]American Nurses Association, Planning a Career in Nursing (2002), at http://nursingworld.org/about/careerlt.htm.
[28]American Nurses Association, NURSING: SCOPE AND STANDARDS OF PRACTICE 9-10 (Nursesbooks.org 2004).
[29]Id. at 11 (emphasis added, citations omitted);see also American Nurses Association, supra note 28, for a detailed discussion of the scope of nursing practice, the dynamic nature of nursing and the conceptual models and theories of nursing.
[30]New York State Nurses Association, Position Statement: Guidelines for Interpretation of the Scope of Professional Nursing Practice (2002), at http://www.nysna.org/programs/practice/positions/position32.htm (emphasis added, citations omitted).
[31]American Nurses Association, supra note 28,at 12-13.
[32]See generally National Council of State Boards of Nursing,at http://www.ncsbn.org see also Feutz-Harder, Sheryl A., NURSING AND THE LAW 1-2 (Pesi 1993) for a discussion of the history of nursing licensure and the development of Nurse Practice Acts.
[33]Sullivan, supra note 5, at 659-660 (citations omitted).