Legal Basics for Professional Nursing: Nurse Practice Acts
by Mable H. Smith, RN, JD, PhD

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Abstract

The purpose/goal of this independent study module is to provide nurses with important information about the legal basics of nursing practice. This module provides the practicing nurse with current information regarding legal implications related to professional nursing. The module will address the regulation of nursing practice, current trends, and workplace issues. The module will also identify the most common complaints to the Boards of Nursing, analyze the role of the State Board in protecting the public, and describe risk management strategies for the professional nurse. Finally, ethical and professional challenges facing nursing in today's healthcare environment will be explored.

NOTE: This continuing education activity does not constitute legal advice and is not intended to replace specific advice from the registered nurse’s own attorney about his or her unique situation.

Keywords:
Legal issues, risk management, liability, Nurse Practice Act

Objectives:

As a result of this independent study module, the learner will be able to:

1. Explain the regulation of nursing practice and current trends.
2. Identify the most common complaints to state Boards of Nursing.
3. Describe the disciplinary proceeding process.
4. Analyze the role of Boards of Nursing in protecting the public.
5. Evaluate risk management strategies for the professional nurse.

**Regulation of Nursing Practice**

Legal requirements for nursing practice exist to assure the health, safety, and welfare of the general public and to protect the integrity of the nursing profession. A discussion of the legal basis of practice must start with an understanding of the regulations governing nursing practice. Regulation of practice is grounded in the Nurse Practice Act (NPA) of each state. Nurse Practice Acts are statutes that outline the rules and regulations that govern the practice of nursing. Because NPAs are developed by state jurisdictions, each state has its own Nurse Practice Act. However, many nursing practice acts are patterned after the *Model Nursing Act and Rules* (National Council of State Boards of Nursing, 2004), and in many aspects contain similar information.

**History of Nurse Practice Acts**

Nurse Practice Acts did not exist before 1903. Without NPAs, people defined and practiced nursing in whatever manner they chose. Moreover, there was no prescribed educational curriculum or clinical model that guided the practice of nursing. There were wide variations both in the abilities of those who claimed to be nurses and in the quality of care that they provided. Even the use of the title "nurse" was not controlled in any way.

In 1903, all of that began to change when North Carolina passed the first Nurse Registration Act. This permissive act did not require those who practiced nursing to register with the state, and unregistered individuals could practice nursing but were prohibited from using the title "RN" (Brent, 2001). The act also did not define nursing or its scope of practice, and no prerequisites such as education or character were established for those who decided to practice nursing. Despite the drawbacks of these first acts, many states felt that some regulation was better than none and followed in North Carolina's footsteps.

In 1938, however, New York State passed the first mandatory NPA that contained requirements that had to be met and maintained by anyone seeking to practice nursing in that state (Brent, 2001). The New York act required licensure for those who practiced nursing. Applicants had to pass a licensure examination in order to practice. Furthermore, they had to meet certain prerequisites before sitting for the examination. Only after successfully passing the licensure exam could a nurse hold and use the title "RN". The act also defined nursing practice for those who practiced professional nursing. By the 1970s, all states mandated licensure of professional and practical nursing.

An important provision in NPAs is the creation of a Board of Nursing to enforce rules and regulations that govern nursing. Boards of Nursing differ from state to state in composition, power, and authority (Catalano, 2006). For example, members of boards or committees can be appointed by the state governor with input from professional organizations, or they can be nominated from state nursing associations (Brent, 2001). The requirements for composition of the state boards are outlined in the state's NPA. Boards of nursing have limited jurisdiction, which means they have only the powers granted to them by the state legislative body (Brent, 2001). If the board exceeds its scope of practice, any decision it makes can be reversed by the court. A case presentation is provided to illustrate this principle.

*(Hemphill v. Louisiana State Board of Nursing, 1998)*
In August of 1995, Hemphill was admitted to and enrolled in a school of nursing. The student successfully completed the initial phase of the nursing curriculum but was advised by the university personnel that he was required to contact the board in order to obtain approval to start the clinical phase of his nursing studies. In November, the Board issued an order directing him to show cause why admission into practice as a registered nurse should not be denied. The board’s “show cause order” stated that based on its information, Hemphill “has been guilty of the violation” of the NPA that read, “is unfit or incompetent by reason of negligence, habit, or other causes” and “is habitually intemperate or is addicted to the use of alcohol or habit-forming drugs.” The student appealed. Siding with the student, the court reasoned that the board actually had exceeded its authority. It said, “While we're duty bound to hold that under the plain language of the Nurse Practice Act the discipline of a student nurse by the Board when the student has not applied for licensure and/or has not already obtained a license is outside the scope and authority granted to it by the legislature.” In essence, the court said, the legislature did not give the board jurisdiction over nursing students. Therefore, it reversed the decision of the board.

Board of Nursing

The Board of Nursing while very powerful can only practice within the parameters granted to it by the legislature. Some of the common powers that the board has include enforcement of the NPA. The four general powers of nursing boards are:

1. Enforcement of the Nurse Practice Act: The board establishes specific rules and regulations that both define and govern nursing practice.

2. Licensure of qualified nurses: The board has the power to license qualified nurses. The board defines the criteria and process for licensure. The requirement for initial licensure application usually includes completion of an approved nursing program, obtaining a passing score on the licensing examination; and proof of good character. The Board of Nursing also has authority to make license decisions for those who are licensed in one state and seek licensure in another state.

3. Approval of education programs: The Board of Nursing is empowered to approve nursing education programs. Many boards set nursing faculty education requirements, establish faculty-student ratios for clinical practice, and develop curriculum requirements for nursing education.

4. Disciplinary actions against licensees: The Board has the power to conduct an investigation and discipline the license of nurses who violate the provisions of the NPA.

Grounds for Disciplinary Actions

Some of the common grounds and leading causes for disciplinary actions taken against a nurse license are unprofessional conduct, unsafe practice, unethical practice, criminal convictions, alcohol and substance abuse.

1. Unprofessional conduct is conduct likely to deceive, defraud, or harm the public. For example, when an individual attempts to obtain a nursing license and falsifies documents or speaks or acts inappropriately to patients or colleagues.

A nurse demonstrated inappropriate behavior (that is, lost her temper) after dealing with a very
difficult complaining and demanding patient. The nurse spoke harshly to the patient and yelled at the patient. The patient indicated that the nurse used profanity, but the nurse denied the allegation. However, her license was disciplined, and she had to take a course in professional ethics and anger management as a condition of meeting probationary requirements.

2. Unsafe practice is being negligent in the delivery of care, providing incompetent care, or lacking the physical or mental capacity to provide safe care. State Boards of Nursing initiate disciplinary actions against nurses for errors made in practice, such as medication errors and negligence, or malpractice in the care that the nurse provides. A question that has arisen relating to situations where a nurse’s action injures or harms a patient through medication errors or other type of negligence is: Should a nurse be held criminally liable for his or her actions? A case example is presented to illustrate this issue.

Fatal Outcome

Three Colorado nurses were involved in a medication error that resulted in the death of an infant. The state sought criminal charges against the nurses. Two nurses entered into a plea agreement. The third nurse went to trial and was cleared on all charges. (Anonymous, 1998; Cook et al., 2000; Golz & Fitchett, 1999; Institute of Medicine, 2004; Lyon, 1998)

This is a trend that must be carefully watched because state prosecutors intervened in an area that probably should remain within the realm of the state Board of Nursing.

3. The third common ground for disciplinary action includes unethical and unprofessional practices. Included in this category are violations such as breach of patient confidentiality; inappropriate sexual relations with patients; sexual harassment of patients or staff members; and discrimination against a patient based on the ethnicity, religious, or other characteristics. Some nursing boards have required nurses to adhere to a code of ethics such as the American Nurses Association’s Code of Ethics for Nurses by incorporating the Code of Ethics into the NPA.

4. Nurses can also be disciplined for criminal convictions, conviction of a felony, or conviction of a crime involving moral turpitude or gross immorality. Felonies include fraud, misrepresentation, embezzlement, patient abuse, and murder. In some states if the nurse is convicted of a felony, he or she is barred from practicing for a certain period, which can be up to five years or more.

5. A common and growing reason for disciplinary action is alcohol or substance abuse. Many state Boards of Nursing have recognized addiction as an illness that requires treatment. While boards must still protect the public by removing the impaired nurse’s license, they have opened up opportunities for treatment, rehabilitation, and entry back into the work environment.

At one time, nursing licenses were simply taken away and impaired nurses had to endure very harsh treatment. Now, some states have programs that allow the impaired nurse to be shielded from disciplinary actions if the nurse enters into an approved treatment facility or program and is successful in completing all of the requirements. According to a study conducted in Louisiana, chemical dependence was the most frequent type of violation reported (Booth & Carruth, 1998).

Disciplinary Proceeding Process

Fourteenth Amendment
There are several key principles that must be recognized in any disciplinary process. These are derived from the concept of due process of law. The 14th Amendment to the United States Constitution, which is commonly known as the "Due Process Clause" provides that no state should deprive any person of life, liberty, or property without due process of law. In order for the 14th Amendment to apply, a nurse must have a property interest in his or her license. A state-issued license for the continual pursuit of the nurse's livelihood, renewable periodically upon payment of a fee and revocable only for cause, creates a property interest in the licensee and can be disciplined, suspended, or revoked only upon a showing of good cause (Attorney General Opinion KA., 1997). In other words, boards of nursing as governmental agencies must adhere to constitutional protection before they can discipline a nurse's license.

Due Process

Due process means that a state or federal governmental agency, such as the Board of Nursing, cannot take unfair, arbitrary, or capricious action against an individual without affording him or her certain rights, and this includes nurses. Procedural due process means that the state board, in order to discipline a nurse's license, must follow fair and previously established legal procedures. This usually involves notice of charges. The state must notify the nurse of the charges and the basis of the charges. The nurse has the right to a hearing, to hear the evidence against him or her, to question witnesses, and to produce evidence and witnesses on his or her behalf.

Substantive due process has little to do with the procedure; rather it more or less relates to the fairness of the decision. In essence, there must be some substance to the charges, claims, or allegations. Arbitrary or capricious decisions violate the nurse’s substantive due process.

(Mississippi Board of Nursing v. Hanson, 1997)

The Mississippi Board of Nursing notified a nurse that charges were being brought against her to seek revocation or suspension of her registered nurse license. This nurse was summoned to appear before the board to answer the charges against her as outlined in the board's complaint. Such charges pertained to a situation where the nurse allegedly abused a neonatal patient. The charge also involved a series of practices that occurred over a period of time that the board deemed inappropriate.

The notice that was sent to the nurse by the board not only outlined the charges, it gave the date, time, and place of the hearing. It also included information that the nurse had the right to appear, either personally or by counsel or both. The nurse had the right to produce witnesses or evidence in her behalf. She had the right to have the board issue subpoenas for her witnesses, and she had the right to cross-examine the board's witnesses.

The board outlined the charges. The first charge alleged the nurse held a naked baby around its neck with only one hand while on duty in the neonatal intensive care unit. The second charge accused her of carrying babies by holding them under their armpits. The third charge stated that she endangered patients by carrying babies around naked and by washing them in the sinks. And the last charge claimed that she endangered the babies by rapidly flipping the levers on their incubators in an attempt to stimulate them.

According to the board, these acts violated provisions of the NPA, which specifically said the nurse negligently or willfully acted in a manner inconsistent with the health or safety of the persons under her care and the nurse negligently or willfully practiced nursing in a manner that failed to meet generally accepted standards of practice.
In presenting this case, the board produced three eyewitnesses. On cross-examination it was noted that the three eyewitnesses did not immediately report the charges; rather, they gave the information during the investigation by the board, and there were even some discrepancies in the testimony. Also, other nurses admitted to the same practices as the accused nurse. Nevertheless, the board revoked the nurse’s license and the nurse appealed the board’s decision.

The court ruled in favor of the board and held that the nurse’s substantive due process rights were not violated. The board’s decision was not arbitrary and capricious because many other nurses admitted to doing the same improper practices. The nurse’s wrongdoings should not be justified by the wrongs of others. In the interest of public policy the court will give deference to the determination of the nursing board.

Procedure and due process rights were also complied within this case. The board gave notice, and the nurse had the opportunity to represent herself and to present evidence. The court re-emphasized the board's authority, and this is the general authority of all boards. The board's authority to suspend or revoke nursing licenses arises from the legislative desire to protect the public from improper nursing practices. It is the board's responsibility to oversee the actions of the registered nurses and to discipline any nurse who endangers the health or safety of the patient.

The board found the practices employed by the nurse to be contrary to the best interest of the patient and revoked her license to practice nursing. The process used by and the decision of the board afforded the nurse adequate due process protection.

**Complaint**

The disciplinary process is initiated when a complaint is made to the board. The complaint may come from a variety of sources, including but not limited to patients, employers, and colleagues. Employers are obligated to report behavior of nurses, such as drug diversion, patient abuse, neglect, or abandonment. Once a complaint is received, it is assigned to a Board of Nursing investigator who will review the complaint and gather additional information if it is warranted. Boards of Nursing differ in how the case is investigated, so a general overview of the investigatory process is provided. Some investigators will gather background information and documents before notifying the nurse of the complaint, while others will contact the nurse and request a response.

Two different approaches are illustrated in the two following case presentations.

**Case A**

The investigator already had employment information and had talked to several witnesses before contacting the nurse. This case involved a nurse who had been reported by her employer for diverting narcotics. The investigator had the patient's medication administration record, a computer printout of the nurse's dispensing activities, and transcripts from witness interviews. All of this was obtained before contacting the nurse. When the investigator met with the nurse, the investigator sought to identify inconsistencies in the nurse’s recall of the events, in essence to assess the veracity of the nurse.

**Case B**

A Board of Nursing investigator sent a letter to a nurse employed at a correction facility informing her of a complaint that had been filed against her. One of the inmates had submitted to the Board of Nursing a written complaint alleging that the nurse refused to administer his prescribed medications and failed to properly monitor his diabetes. In response to the complaint from the
inmate, the investigator sent a letter to the nurse outlining her rights and requesting a written reply to the accusations. The nurse and her attorney drafted the response, which outlined the care required and provided to the inmate and sent it to the investigator. The complaint was dismissed with no further action taken.

In any case, it is imperative that once contacted by an investigator, the nurse seek legal advice before talking with the investigator. Disciplinary proceedings can be adversarial, and it is important for the nurse to understand the nature of the process as well as the potential consequences. The potential consequences can range from dismissal (no action) to revocation of the nurse’s license.

Right to Counsel

Nurse attorneys are valuable resources in disciplinary proceedings because they understand both nursing and the law and are often times experienced in handling nursing licensure issues. Another reason for an attorney is that the rules governing administrative hearings are not as rigid as at civil or criminal trials, and therefore in these proceedings hearsay evidence may be allowed. The burden of proof needed to take action against a nurse's license can range from satisfactory proof to a preponderance of the evidence to substantial evidence to clear and convincing evidence. Each of these standards or burden of proof requires a different amount of evidence. An attorney is familiar with the amount and type of evidence the state must present to prove its case against a nurse.

The nurse should not feel pressured into talking with an investigator without an attorney present. The nurse should remember she or he has the right to an attorney. (See Table 1).

Case Example

A nurse consulted an attorney after speaking with an investigator and receiving notice from the board informing her of a scheduled informal hearing to have her address the charges. The nurse was asked why she spoke with the investigator before consulting an attorney. She answered that she worked the night shift, and the investigator called her probably two hours into her sleep and she really just felt an immediate need to defend herself.

Nurses need to remember that just as a criminal defendant is read his Miranda rights and told he has the right to remain silent, anything he says can and will be used against him, and he has the right to an attorney, so, too, do nurses have the same rights, although investigators don’t usually tell the nurse this. Nurses should remain silent until after consulting an attorney because anything they say may and probably will be used against them. Therefore, the importance of an attorney cannot be overemphasized.

Hearing and Decision by the Board

After the investigation, the decision is made by the board or its representative on whether to take no further action on the complaint, proceed to an informal hearing, proceed to a formal hearing, or summarily suspend a nurse's license with a hearing at a later date. If the nurse represents a substantial danger to the public, the Board of Nursing will immediately suspend the nurse’s license and provide a hearing thereafter. This is a case in which the board does not have to follow procedural due process before disciplining the license because the person represents a substantial danger to the public. However, the board will have to provide due process rights immediately after taking action. This happens in situations where there is substantial evidence
that a nurse is diverting or stealing narcotics or that the nurse represents a substantial danger to patients.

In an informal hearing the nurse is notified of the alleged charges and provided the documentation that supports the allegation. The nurse is given a hearing date to appear before a panel or a hearing officer. Relying on information in the investigator's report, the hearing officer or panel will ask questions specifically related to the complaint or charges. The nurse can also produce evidence in his or her favor. In some of the informal hearings, the board representatives can be extremely inquisitive and extremely harsh, and it's very important that the nurse go into the hearing understanding the process and prepared to address the questions.

Based on the informal hearing, the panel can take actions ranging from dismissal of the complaint to a reprimand of the nurse's license or a reprimand with conditions. For example, the nurse may have to take a medication administration course in cases involving medication errors. In many cases the board panel will then send the decision to the full board for agreement with the decision and action.

The act of suspension or revocation of a nurse's license usually requires a formal hearing that is recorded for the record and produces a transcript in case the nurse decides to appeal the board's decision. In a formal hearing, the nurse has the right to cross-examine the state's witnesses and to present his/her own witnesses. The hearing must be before a proper and authorized board that makes its decisions in a fair manner based on the evidence presented.

If the board or hearing officer is biased or renders an opinion in an arbitrary or capricious manner, the nurse has a basis for an appeal based on violation of her substantive due process rights. Therefore, evidence must be in the record that demonstrates or supports the decision made by the board. However, in these proceedings the nurse must remember that the rules governing administrative hearings are not as rigid as in criminal trials, and, again, hearsay evidence is allowed.

After a formal hearing, the board actions can range from dismissal of the complaint to revocation of the nurse's license. If the nurse is not satisfied with the board's decision, he or she can petition to have the decision reviewed by the appropriate court in his or her state. This is a situation where having a nurse attorney or at least an attorney is very important because one can only appeal a decision in a specified timeframe. If one appeals outside that timeframe, the court will deny the appeal.

The reviewing court's main role is to ensure that the administrative hearing was a fair one, that it followed procedures, and that the applicable law was interpreted and applied correctly. Consequently, based on the review, the reviewing court can either uphold or reverse the court's decision.

**Tuma versus the Idaho State Board of Nursing, 1979**

Tuma versus the Idaho State Board of Nursing is a landmark case. In 1976, Tuma was a registered nurse employed as a clinical instructor of nursing by the College of Southern Idaho. While performing these duties, she met a patient with myelogenous leukemia. Tuma was asked to administer the chemotherapy to the patient. During initiation of the treatment, the patient brought up the subject of alternative treatment with Tuma. After discussions about an alternate drug the patient decided that she no longer wanted to have chemotherapy. The patient died about two weeks later, although it was not based on any actions by Tuma. Nurse Tuma was reported to the Board of Nursing for interfering with the physician-patient relationship. After a hearing the board found Tuma guilty of unprofessional conduct and suspended her license for six months. She
appealed this decision to the court. The court reversed the board’s decision and said the board could not suspend a license of this person without a clear warning to her that the conduct she had engaged in, talking with the patient about alternative treatments, was unprofessional. In other words, there was nothing that would put the nurse on notice that the act of telling patients about alternate treatments could be considered unprofessional conduct.

**Additional Roles of the Boards of Nursing**

In addition to having roles in education, practice, and disciplinary proceedings, state Boards of Nursing are members of the National Council of State Boards of Nursing. The National Council is a not-for-profit organization whose memberships include the state boards in the 50 states, the District of Columbia, and the five U.S. territories (National Council of State Boards of Nursing, 2006a) . The purpose of the National Council of State Boards of Nursing is to provide an organization to which Boards of Nursing act and counsel together on matters of common interest and concerns affecting the public health, safety, and welfare of the public. For example, the National Council of State Boards of Nursing created a model of multi-state licensure compact (National Council of State Boards of Nursing, 2006b) to address technological advances in healthcare and to better meet consumer need and demand by providing access to providers.

The mutual recognition model of nurse licensure allows the nurse to have a license in his or her state of residence and to practice in other states without obtaining a separate license (Harbison, 2003) . To participate, a state must formally enter into the multi-state licensure compact. To illustrate, a nurse who is licensed to practice in his or her residency state, for example Delaware, does not need an additional license to practice in another compact state, such as North Carolina or Texas. That nurse is granted a multi-state privilege to practice nursing in other compact states. However, a nurse whose primary residency is in a non-compact state, such as Nevada, would not be granted multi-state privilege to practice in a compact state. That nurse must seek an individual license to practice in the other states.

Another special case of licensure that has similar features as multi-state licensure actually involves military and government nurses. These nurses’ practice takes them throughout the country on a regular basis. The Veteran’s Administration or Public Health Service employs thousands of nurses both in and outside the U.S. boundaries. For these nurses it is not necessary to obtain license in each jurisdiction. Upon the completion of the National Council Licensure Examination (NCLEX ®) in one state, the nurse may practice in other jurisdictions without additional licensure requirements.

State Boards of Nursing also assist nurses in clinical practice as they encounter situations that are not addressed in the NPAs or that emerge due to changes in technology. For example, state Boards of Nursing can provide guidance for nurses through advisory opinions on issues such as accepting patients in overload assignments and nursing shortage situations or mandatory overtime. These opinions do not have the force of law but they can provide insight into how the board might interpret these issues in relation to its NPA.

Advisory opinions are usually not given in areas that are considered workplace matters. These include issues like collective bargaining, at-will employment, or wrongful discharge allegations. Employment issues are outside the jurisdiction or boundaries of the state Board of Nursing.

**Risk Management for Nurses**

Nurses have a legal obligation to practice in a legally safe manner. A general principle is that each nurse is legally and professionally responsible for his or her actions or inactions. Therefore,
nurses should develop a personal risk management plan to minimize the possibility of malpractice and Board of Nursing disciplinary actions.

A risk management plan should include consideration of professional insurance, even though nurses are covered under their employer's policy. Nurses should understand that there are situations in which their employer's policy will not adequately protect them. For example, if a judgment is rendered against a nurse in a malpractice situation and the employer's policy does not cover the entire amount, the nurse is legally responsible for any remaining amount. Another consideration is that when nurses are engaged in activities that are outside the employment environment, such as health fairs, their employer's policy does not cover them. And finally, many professional insurance policies offer licensure protection insurance. The attorney fees in a disciplinary action can be very expensive, and licensure protection insurance may cover the entire costs of your defense or a substantial portion.

Also, nurses need to understand the parameters of safe and effective practice. This includes clear and consistent verbal and written communications with patients and other members of the health care team. The nurse is responsible for maintaining and updating nursing skills and competencies, having proper documentation, and understanding one's role as a member of the health care team so that the nurse does not exceed his or her scope of practice, which can be a grounds for disciplinary action.

Finally, a risk management plan should include reflection. Reflection provides a safe evaluation of one's practice. It allows you to revisit the event without the stress of the moment. Replay in your mind what could have been done differently or better, given the situation. This allows you to build a repertoire of effective responses when confronted with similar situations.

**Foundation for Professional Practice**

The foundation of practice from a legal, ethical, and professional perspective is grounded in NPAs. However, many nurses have not and will not read the NPA, at least until they are facing disciplinary action.

Nurses should also attend disciplinary hearings and review case law to learn from the mistakes, actions, or inactions of other nurses. Attending a hearing will provide not only insight into the process, but also insight into the seriousness of protecting one's professional license, and, in many cases, one's livelihood.

Another legal foundation of practice is the agency's policies and procedures. Many times in malpractice cases against nurses, the attorney will subpoena these policies and procedures to determine if the nurse violated them. Agency policies and procedures have often gone through several layers of review and represent acceptable standards and practices. These policies and procedures should also conform to standards of practice as outlined by specialty and professional organizations.

The American Nurses Association has outlined the fundamentals of professional practice in several documents, one of which is the Code of Ethics (American Nurses Association, 2001). From an ethical perspective the foundation for nursing practice is grounded in the Code of Ethics. It provides guidance to nurses on how to meet and address the ethical obligations of practice. For example, nurses have an obligation to respect human life and human rights; therefore, they must safeguard patients. In protecting the patient, the nurse may have to report a colleague whose practice may endanger the health, safety, or welfare of patients.

To facilitate and help nurses to engage in safe and effective practice, the American Nurses Association has published the *Nursing Scope and Standards of Practice* (American Nurses
This publication delineates expected clinical behaviors for registered nurses in all clinical settings. These standards are reviewed and endorsed by specialty nursing associations.

An important organization that nurses should also be familiar with is the American Nurses Association Congress on Nursing Practice and Economics. The Congress focuses on establishing nurses' approaches to emerging trends within the socioeconomic, political, and practice spheres of the health care industry by identifying issues and recommending policy alternatives. Therefore, many of the emerging issues and trends in nursing have been or will be addressed at this governance level.

Nurses today have a wide array of resources available to them through their clinical agencies and professional organizations and associations. They should utilize these resources when confronted with situations that require guidance.

Table 1
Selecting an Attorney

If a nurse receives notice of a complaint from the Board of Nursing, the nurse needs to treat the matter seriously and seek legal counsel. But how does one select an attorney for this type of case?

One resource is The American Association of Nurse Attorneys (TAANA), which can provide a list of attorneys in the region the nurse is practicing. Another resource is the State Bar Association, which can provide information on attorneys who specialize in licensure protection.

There are three important questions a nurse should ask before hiring an attorney.

1. Have you been involved in this type of case?
2. How many cases have you been involved in?
3. Are you familiar with administrative hearings?

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**About The Author**

Dr. Mable H. Smith, RN, JD, PhD, is the Dean of the College of Nursing at the University of Southern Nevada. She earned her law degree in 1992 from Florida State University and practiced in the areas of licensure protection for nurses; medical malpractice; and personal injury, criminal, and domestic relations. Dr. Smith has served on the faculties of Florida A&M University, Old Dominion University, and the University of Southern Mississippi, where she was responsible for the operations of the regional campus. Dr. Smith is a nationally recognized expert in nursing education. She has published, taught, and spoken on a wide variety of topics, including legal and ethical issues in nursing. Her publications have appeared in leading nursing journals, and in 2004 she authored the book *The Legal, Ethical and Professional Dimensions of Nursing Education*. 