

BEFORE THE OKLAHOMA BOARD OF NURSING

IN THE MATTER OF THE AMENDMENT TO THE DECLARATORY RULING ISSUED NOVEMBER 9TH, 2004, AS TO THE APPLICABILITY OF THE OKLAHOMA NURSING PRACTICE ACT, 59 O.S. §§567.1 *ET. SEQ.*, SPECIFICALLY, §567.3a 3. AND OAC §485:10-11-1, OF THE RULES PROMULGATED BY THE OKLAHOMA BOARD OF NURSING AS TO WHETHER IT IS WITHIN THE CURRENT SCOPE OF PRACTICE OF THE REGISTERED NURSE TO EXPRESS AN OPINION ABOUT THE PRESENCE OR ABSENCE OF SEXUAL ABUSE IN A CHILD; AND WHETHER IT IS WITHIN THE CURRENT SCOPE OF PRACTICE OF THE REGISTERED NURSE TO REPORT OPINIONS AND FINDINGS AS “CONSISTENT WITH” SEXUAL ABUSE OR A NORMAL EXAM.

AMENDED DECLARATORY RULING

The Petition of L. Louise Drake, M.H.R., R.N., requesting an amendment to a Declaratory Ruling as to the applicability of the Oklahoma Nursing Practice Act, 59 O.S. §§567.1 *et. seq.*, specifically, §567.3a 3. and OAC §485:10-11-1, of the Rules promulgated by the Oklahoma Board of Nursing (“Board”) as to whether or not it is within the current scope of practice of the registered nurse to express an opinion about the presence or absence of sexual abuse in a child; and whether or not it is within the current scope of practice of the registered nurse to report opinions and findings as “consistent with” sexual abuse or a normal exam, comes on for hearing this 25th day of March, 2008, all members of the Board being present, except Roy Watson, Ph.D., Public Member, who was absent. The Board is represented by Debbie McKinney, Attorney at Law, and Petitioner appears in person, without counsel.

After considering all information relevant to the Petition including testimony of witnesses and argument of counsel, the Board finds:

1. The Petition is properly before this Board pursuant to OAC §485:1-1-5-(c) of the Rules of this Board.
2. The Oklahoma Nursing Practice Act provides registered nursing practice includes but is not limited to: “performing additional nursing functions in accordance with knowledge and skills acquired beyond basic nursing preparation,” when said Registered Nurses have received such additional knowledge and skills. (See 59 O.S. §567.3a 3. m.).
3. The skills and training to perform sexual assault exams is currently provided through educational programs designed to train registered nurses in the role of the adult and pediatric Sexual Abuse Nurse Examiner (SANE), in compliance with the International Association of Forensic Nurses Pediatric and Adult/Adolescent Educational Guidelines for Sexual Assault Nurse Examiners.
4. Registered nurses trained in the role of the pediatric and/or adult SANE, are functioning in rural and urban areas, collecting assessment and forensic data, from children who may or may not have been sexually abused, and testifying to this information in court.
5. OAC §485:10-11-1 of the Rules of this Board was adopted to protect the patient from acts and procedures performed or carried out by a licensed nurse who does not have the proper education, training and preparation necessary to perform or carry out safely such acts or procedures.

The Oklahoma Board of Nursing therefore concludes and declares: It is within the scope of practice of the registered nurse to express an opinion about the presence or absence of sexual abuse in a child, and it is within the current scope of practice of the registered nurse to report opinions and findings as “consistent with” sexual abuse or a normal exam in accordance with the Oklahoma Nursing Practice Act 59 O.S. §567.3a 3. m.; therefore, the performance of the duties in connection with the sexual assault exams by a properly trained and educated registered nurse, in compliance with the International Association of Forensic Nurses Pediatric and Adult/Adolescent Educational Guidelines for Sexual Assault Nurse Examiners, who then reports opinions and findings as “consistent with” sexual abuse or a normal exam, does not violate the Oklahoma Nursing Practice Act and Rules and is not in and of itself a violation of 59 O.S. §567.8 and OAC §485:10-11-1.

This Amended Declaratory Ruling issued this 25th day of March, 2008.



OKLAHOMA BOARD OF NURSING

By: Louise Talley Ph.D., RN
Louise Talley, Ph.D., R.N., President

Declaratory Rulings are rulings the Board issues in response to a specific question or questions as to the applicability of any rule or order of the Board at the request of a Petitioner. A Declaratory Ruling provides an explanation or clarification of the rules and shall be binding on the Board and all parties to the proceedings on the statement of facts alleged. A Declaratory Ruling or refusal to issue such a ruling shall be subject to judicial review as indicated in the Oklahoma Administrative Procedures Act. All Declaratory Rulings are public record and are issued in open session, following public hearings with notices posted of the open meetings, and the public may attend.