

Ohio Nursing Law



This booklet is offered to Ohio nurses as a way to meet your requirement for 1 contact hour of CE in Category A that is directly related to the Ohio Nurse Practice Act.

A publication for all members of the nursing profession.

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This continuing nursing education activity was approved by the Ohio Nurses Association, an accredited approver by the American Nurses Credentialing Center’s Commission on Accreditation (OBN-001-91).

Approval valid through: January 4, 2021

Assigned ONA # 21960

Contact Hour(s): 1.0

Program Fee: \$15.00

featuring:

Medical Marijuana and the Role of the APRN, RN, and LPN

Blood Draws at the Request of Law Enforcement

How to Change Your Address with the Board of Nursing

Ohio Nursing Law is locally-made in Ohio:
- **created by Ohioans;**
- **peer-reviewed by Ohioans;**
- **printed in Ohio by an Ohio printing company; and**
- **your certificates will be made and mailed to you by Ohioans!**



Title: 2019 Ohio Nursing Law Program – Updates You Can Use

Target Audience: Ohio Registered Nurses. This CE is good for credit for all licensees and certificate holders of the Ohio Board of Nursing

Category A: This program provides 1.0 contact hours of **Category A** continuing nursing education related to the Ohio Nurse Practice Act and the rules of the Ohio Board of Nursing.

“Category A” means the portion of continuing nursing education that meets the one hour requirement directly related to Chapter 4723 of the Revised Code and the rules of the Board of Nursing as set forth in section 4723 of the Administrative Code.

Media: hard-copy enduring print booklet, or online at www.ohionursinglaw.com or www.selectce.org

Fee Information: \$15.00

Estimated Time to Complete the Activity: 60 minutes

Procedures: To receive credit for completing this activity, read this booklet, complete the post-test questions and evaluation on the Answer Sheet, and either:

i) mail the Answer Sheet and the program fee to us. You will receive a Statement of Credit mailed to you within 10 business days. Checks or money orders are encouraged. Mail to: Ohio Nursing Law, P.O. Box 21186, Columbus, Ohio 43221- 0186;

or

ii) use our online test-taking website www.ohionursinglaw.com. Follow the instructions on the website, using any major credit card to pay the program fee. Upon passing the test, you will receive immediate confirmation via email, and your official Statement of Credit will be sent within 5 days. Refunds are not provided, unless you mistakenly make too many online payments or some such other snafu.

A minimum score of 70% is required to earn a Statement of Credit.

CE Planning Team: Our Nurse Planner for this program is Mark Laubacher, RN, BSN, CEN, CSPI, EMT-P. Faculty is Patti Nussle, JD.

Disclosure of Commercialism, Bias, Conflicts of Interest: Prior to the delivery of the content, we offer these disclosures: All persons in a position to influence the content of this activity, including each member of the CE Planning Team listed above, report no commercial interests, bias, or conflicts of interest.

Goal Statement: The goal of this activity is for the learner to acquire knowledge of sections of the Ohio Revised Code that may affect their healthcare practice, in order to promote professional development and enhance the learner's contribution to quality health care and the pursuit of professional goals.

Objective: At the conclusion of this program, participants should be able to a) restate the nurse's role regarding medical marijuana in Ohio, and b) describe what to do when law enforcement requests blood draws of an unconscious patient.

Important Note: This is a continuing education program. It is not legal advice. Do not rely on this continuing education activity as legal authority. If you do have a legal problem or question, consult an attorney experienced in nursing law matters to discuss your specific situation.

Questions? Email us at patti@selectce.org, or call us at 614-481-8711.

Thank you! We truly enjoy serving you!

In this continuing education offering, we present the Board of Nursing’s recent articles in its *Momentum* magazine in which the Board provides information about current changes to the Ohio Nurse Practice Act.

Medical Marijuana and the APRN, RN, and LPN¹

Ohio’s Medical Marijuana Control Program was to be operational in late 2018. Ohio’s Department of Commerce oversees the licensure of medical marijuana cultivators, processors and testing laboratories; Ohio’s Pharmacy Board oversees licensure of retail dispensaries and the registration of patients and their caregivers; and Ohio’s Medical Board issues certificates to qualified physicians in order to recommend medical marijuana. Section 3796.02, Ohio Revised Code (ORC).

Certified Physicians May “Recommend” the Use of Medical Marijuana Under Ohio Law Renew Timely

The Medical Board must certify physicians as a “certified recommending physician” in order for physicians to be authorized to “recommend” the use of medical marijuana. The law authorizes physicians to “recommend” the use of medical marijuana under certain circumstances, rather than “prescribe” marijuana. Physicians are required to report the recommendation for medical marijuana treatment in the OARRS database. Section 4731.30, ORC, and Rule 4731-32-02, Ohio Administrative Code (OAC).

The Pharmacy Board Must Register Patients and Caregivers for Them to Possess and/or Administer Medical Marijuana

Each registered caregiver must be registered to a specific registered patient. A registered caregiver may be a caregiver for up to two patients, except in certain situations. Each registered patient may have no more than two caregivers. Rule 3796:7-2-02, OAC.

Registered Patients, Registered Caregivers, and the Nurse’s Role

This is the important point:

¹ From the Summer 2018 *Momentum*, the official journal of the Ohio Board of Nursing.

Unless the nurse is a registered caregiver for a registered patient, APRNs, RNs and LPNs are not authorized to possess or administer medical marijuana. APRNs, RNs, and LPNs may only possess or administer medical marijuana if they are registered with the Pharmacy

Question 1:

Ohio's Medical Marijuana Control Program requires medical marijuana cultivators, processors and testing laboratories to be licensed by Ohio's:

- a. Department of Commerce;
- b. Board of Pharmacy;
- c. Board of Nursing;
- d. Medical Board.

Question 2:

Ohio's Medical Marijuana Control Program requires retail dispensaries to be licensed by Ohio's:

- a. Department of Commerce;
- b. Board of Pharmacy;
- c. Board of Nursing;
- d. Medical Board.

Question 3:

Ohio's Medical Marijuana Control Program requires the registration of patients and their caregivers by Ohio's:

- a. Department of Commerce;
- b. Board of Pharmacy;
- c. Board of Nursing;
- d. Medical Board.

Board as a registered caregiver for a specific registered patient. Please see the Ohio Medical Marijuana Control Program FAQs for "Patients and Caregivers" at <http://www.medicalmarijuana.ohio.gov/faqs>.

Question 4:

APRN's, RN's, and LPN's are only authorized to possess or administer medical marijuana if:

- a. the nurse is a registered caregiver for a registered patient;
- b. the Board of Nursing has granted permission to the nurse;
- c. the patient is at the end of life;
- d. the patient has a medical marijuana control bracelet.

Question 5:

An APRN, RN, or LPN can be a registered caregiver for up to ____ patients.

- a. 2;
- b. 4;
- c. 5;
- d. 10.

Other Considerations for RN and LPN Nursing Practice

The RN scope of practice includes assessing patient health status for purposes of providing nursing care; identifying patterns of human responses to actual or potential health problems for a nursing regimen; executing a nursing regimen through the selection, performance, management and evaluation of nursing actions; and providing health teaching and counseling. A RN may, for example, in the course of providing care to a patient, provide health teaching and health counseling regarding medical marijuana and consult and confer with the patient's physician regarding the patient's health care status and needs consistent with 4723.01(B)(1)-(4) ORC, and standard of practice I Chapter 4723-4, OAC.

Similarly, the LPN in the course of providing care to a patient may provide patient teaching regarding medical marijuana and consult and confer with the patient's physician regarding the patient's health care

status and needs consistent with 4723.01(F)(1)-(2) ORC, and standards of practice in Chapter 4723-4, OAC.

Prescribing APRNs

APRN's authorized to prescribe are prohibited from prescribing Schedule I controlled substances, including medical marijuana. For more information, see Section 4723.481(A); Section 3719.01, ORC, and Section 3719.41 ORC. Prescribing APRN's are **not** authorized to obtain a certificate to recommend medical marijuana; this certificate is only available to qualified physicians under Section 4731.30, ORC and Rule 4731-32-01(A)(1), OAC.

The Ohio Medical Marijuana Control Program has a Toll-Free Helpline at 1-833-464-6627. The Toll-Free Helpline responds to inquiries from patients, caregivers, and health professionals regarding adverse reactions to medical marijuana, and provides information about available services and additional assistance as needed.

You may email questions to PracticeRNandLPN@nursing.ohio.gov or PracticeAPRN@nursing.ohio.gov with nursing questions on this subject.

Question 6:

APRN's authorized to prescribe in Ohio:

- a. can prescribe medical marijuana the same as any other controlled substance;
- b. can prescribe medical marijuana only if they complete specialized training;
- c. cannot prescribe medical marijuana because it is a Schedule I controlled substance;
- d. cannot prescribe medical marijuana because it is a Schedule II controlled substance.

Blood Draws at the Request of Law Enforcement

In July 2017, a nurse working in a Utah hospital was arrested when she refused a Salt Lake City Police detective's request to draw blood from an unconscious patient, who had been transported to the hospital following a highway crash. The patient had sustained severe injuries including extensive burns when a man who was fleeing law enforcement crashed into the semi-truck being driven by the patient.

According to news reports, local police investigating the accident requested that Salt Lake City Police obtain a blood sample from the patient. When a Salt Lake City police detective arrived at the hospital to obtain a blood sample, the nurse explained that hospital policy prohibited a blood draw unless the patient was under arrest, there was a warrant for the draw or the patient consents. The nurse refused the detective's demand to draw blood because the patient was not under arrest, the detective did not have a warrant and the unconscious patient could not consent.²

Hospital administrators praised the nurse for protecting patient privacy.³ The detective was suspended from his job pending investigation and was also fired from his second job as a paramedic because of the way he made the demand.

This incident and the widely viewed video of the nurse's arrest have sparked conversations in health care communities, including in Ohio.

To fully address this type of situation, nurses should be aware of applicable provisions of the Nurse Practice Act and rules, other Ohio law and rules, and facility/employer policies and procedures.

² Stephen Hunt and Luke Ramseth, "Accident victim at center of University Hospital blood-draw controversy dies," The Salt Lake City Tribune, September 26, 2017. www.sltrib.com/news/2017/09/26/accident-victim-at-center-of-university-hospital-blood-draw-controversy-dies/. Accessed 12/14/17. Susan Hogan, "The patient a Utah nurse protected before her highprofile arrest dies," The Washington Post, September 27, 2017. www.washingtonpost.com/news/morning-mix/wp/2017/09/27/the-patient-a-utah-nurse-protected-before-her-high-profile-arrest-dies. Accessed 12/14/17.

³ Nicole Chavez, "Officer involved in Utah nurse arrest fired from paramedic job," CNN, September 6, 2017, www.cnn.com/2017/09/05/health/nurse-arrested-police-protocol/index.html. Accessed 12/14/17.

Question 7:

To fully address whether Ohio nurses must do a blood draw at the request of law enforcement, nurses should be aware of:

- a. applicable provisions of the Ohio Nurse Practice Act;
- b. other Ohio law and rules;
- c. facility/employer policies and procedures;
- d. all of the above.

This CE activity focuses on RNs because the Ohio traffic laws discussed specifically reference RNs. However, the same principles would apply to LPN practice.

The Ohio Nurse Practice Act and Administrative Rules

Section 4723.01(B)(2), (3), and (5), ORC, authorize a RN to assess a patient's health status, implement a nursing regimen and execute an authorized provider's regimen, such as a physician order, all for purposes of nursing care and health care. In providing nursing care, a RN is authorized to collect a venous blood sample from a patient pursuant to the nursing regimen or a provider's order. At all times a RN is required to adhere to the standards of nursing practice, and is prohibited by Section 4723.28, ORC, from causing a patient harm.

With respect to a **conscious person** who consents to the procedure at the request of law enforcement, the nurse may proceed, consistent with facility policy and procedures. When a person is at a facility for health care treatment, the Nurse Practice Act does not authorize or compel a nurse to perform a procedure, including a blood draw, on that person without that person's consent, even if law enforcement is involved and requesting the blood draw. Section 4723.28(B)(12), ORC; Rule 4723-4-06(H), OAC; Rule 4723-4-06(J), OAC; and Rule 4723-4-06(K), OAC..

If the person is **unconscious**, the RN may draw blood pursuant to authorized practice as a member of the health care team in the evaluation, diagnosis and treatment of the patient's condition for the purposes of providing health care. Section 4723.01(B)(2), (3), and (5), ORC.

Question 8:

For conscious patients, the Ohio Nurse Practice Act does not authorize or compel a nurse to perform a procedure on that person without that person's consent.

- a. True;
- b. False.

For both conscious and unconscious patients, whether other laws would authorize a RN to draw blood for non-health care purposes, e.g., pursuant to a law enforcement request or pursuant to a warrant, would again involve interpretation of other applicable law, not enforced by and outside the jurisdiction of the Board of Nursing.

Other Law and Rules

Section 4511.191(A)(2), ORC, “Implied Consent,” is a Ohio traffic law that provides that any person who drives a car in Ohio is deemed to have consented to a blood test to determine alcohol/other blood level concentration if arrested for a violation of Section 4511.19 (A) or (B), ORC, 4511.194, ORC, or a substantially equivalent municipal ordinance, or a municipal OVI ordinance. If a person refuses to take a blood test when requested by law enforcement to do so, the law permits a law enforcement officer “to take reasonable steps to ensure the person submits to the test,” and provides the officer limited immunity. Section 4511.191(A)(5)(a) and (b), ORC.

These traffic laws do not address failure of a healthcare provider to comply with an officer's request to conduct a blood draw.

Hospital policies and procedures

Facilities and hospitals should have established policies and procedures to guide nurses when they are presented with a law enforcement request for a blood draw under the various circumstances that may arise, whether from a conscious or unconscious person, with or without affirmative consent, or from any person pursuant to a warrant or subpoena or other legal process.

Question 9:

Ohio traffic laws do not address failure of a healthcare provider to comply with an officer's request to conduct a blood draw, but a hospital's policy and procedures should.

- a. True;
- b. False.

Ohio Nurse Practice Standards

Rule 4723-4-06(H), OAC, states that a licensed nurse shall implement measures to promote a safe environment for each patient.

Rule 4723-4-06(J), OAC, states that at all times when a licensed nurse is providing direct nursing care to a patient the licensed nurse shall treat each patient with courtesy, respect, and with full recognition of dignity and individuality.

Rule 4723-4-06(K), OAC, states that a licensed nurse shall not engage in behavior that causes or may cause physical, verbal, mental, or emotional abuse to a patient, or that may reasonably be interpreted as physical, verbal, mental, or emotional abuse.

For example, in any circumstance where a RN is providing nursing care, whether taking a blood pressure, administering a medication, performing a particular procedure, or any other aspect of nursing care, if a patient refuses that care, the RN would consider consultation with other members of the health care team, consistent with Rule 4723-4-03(C) and Rule 4723-4-06(J), as required.

Summary

The Nurse Practice Act authorizes a nurse to obtain a blood sample, from a consenting conscious patient, at the request of law enforcement assuming the nurse is complying with all relevant standards of care. Nurses should seek advice and clarification from their facility's administration and/or legal counsel as to the limits of their obligations

when presented with a request from law enforcement, a warrant, or a subpoena for a blood sample to be taken from a person who is unconscious or who is conscious but not consenting to the procedure.

Nurses may wish to work with facility administrators to establish or better understand policies and procedures to address their legal obligations under various employment conditions and situations, including: when a person is already in the hospital's care for health care purposes; when a person is unconscious; and, when a conscious person is brought to the hospital solely for the purpose of a blood draw and does or does not consent. **The Nurse Practice Act does not compel a nurse to perform a blood draw for nonpatient care purposes.**

Question 10:

When presented with a request from law enforcement, a warrant, or a subpoena for a blood sample to be taken from a person who is unconscious or who is conscious but not consenting to the procedure, nurses should seek advice and clarification from their facility's administration and/or legal counsel as to the limits of their obligations.

- a. True;
- b. False.

How Do I Change My Address with the Board?

1. If you have already registered on the Board's portal, skip to Step #3.
2. If you are a first time user, then register on the Board's portal:
 - Navigate to the e-License Home Page at <https://elicense.ohio.gov>
 - Choose **the Login / Create an Account** option.
 - Choose the **"I HAVE A LICENSE"** button.
3. Log in to your account at <https://elicense.ohio.gov> and
4. Click on the link **"Options"** found in the License box.
5. Click on the link **"Change Address."**
6. Press **"Submit"**. Your address change will be automatically applied to your license or certificate.

Return this ANSWER SHEET and \$15.00 Program Fee to:

OHIO NURSING LAW
P.O. Box 21186
Columbus, Ohio 43221-0186

NAME: (print neatly, please)	
ADDRESS:	
CITY and STATE and ZIP:	
PHONE NUMBER:	EMAIL:

ANSWER SHEET: 2019 Ohio Nursing Law Program-Updates You Can Use

ONA # 21960; Expiration Date is January 4, 2021

- | | | | | | | | | | |
|----|---|---|---|---|-----|---|---|---|---|
| 1. | a | b | c | d | 6. | a | b | c | d |
| 2. | a | b | c | d | 7. | a | b | c | d |
| 3. | a | b | c | d | 8. | a | b | | |
| 4. | a | b | c | d | 9. | a | b | | |
| 5. | a | b | c | d | 10. | a | b | | |

11. Objective Met: After completing this program, I am able to *restate the nurse's role regarding medical marijuana in Ohio*: Yes No

12. Objective Met: After completing this program, I am able to *describe what to do when law enforcement requests blood draws of an unconscious patient*: Yes No

13. This CE activity met my educational needs: Yes No

14. The quality of the faculty was: Great OK Needs to Improve

15. The usefulness of the learning material was: Great OK Needs to Improve

16. The effectiveness of the teaching and learning methods, including active learning, was: Great OK Needs to Improve

17. The appropriateness of the learning assessment activity (the post-test) was: Great OK Needs to Improve

18. If you perceived any bias or commercialism, please describe:

19. How long did it take you to complete this activity? _____

20. Other comments: _____

Thank you!