

## OPINION NO. 74-049

**Syllabus:**

**A nurse who is not currently licensed to practice professional nursing or practical nursing in Ohio may nevertheless provide nursing services on a purely volunteer basis, without compensation.**

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**To: Myra C.F. Freet, R.N., Exec. Secretary, Board of Nursing Education and Nurse Registration, Columbus, Ohio**

**By: William J. Brown, Attorney General, June 6, 1974**

**I have before me your request for my opinion on this question: "May a nurse who is not currently licensed in Ohio practice nursing as a volunteer; i.e., without compensation?"**

The practice of professional nursing or practical nursing without a license is prohibited by R.C. Chapter 4723. R.C. 4723.07 reads as follows:

"No person shall practice as a 'registered nurse,' or use the initials 'R.N.' who has not met all the legal requirements of the state board of nursing education and nurse registration."

R.C. 4723.16 reads as follows:

"After April 1, 1971, no person shall practice practical nursing in this state as a licensed practical nurse or practical nurse, as defined in section 4723.15 of the Revised Code without first complying with the requirements of sections 4723.01 to 4723.40, inclusive, of the Revised Code. A resident of Ohio who is practicing practical nursing in this state without being licensed as a licensed practical nurse, shall file with the board of nursing education and nurse registration on or before December 31, 1970, a written application, verified by the applicant's oath and supported by the certificate of two licensed physicians of this state or by two registered nurses of this state or by one such licensed physician and one such registered nurse on a form prescribed by the board setting forth the fact that applicant has worked with each of such persons and has been practicing nursing as a practical nurse for more than two years next preceding the date of such application and that the applicant is competent and is of good moral character and shall pay to the board a fee in an amount not to exceed the sum of fifteen dollars. The board shall then admit such person to examination.

"The board shall issue to the applicant complying with this section and passing the examination a license to practice practical nursing and authorize him to use the initials 'L.P.N.' in connection with his identity, effective upon the receipt of such license by the applicant."

In view of these Sections, the definitions of "professional nursing" and "practical nursing" are crucial. Such definitions have been provided by the General Assembly. R.C. 4723.06 reads as follows:

"'Practice of professional nursing' means the performance for compensation of acts requiring substantial judgment and specialized skills based on knowledge and application of scientific principles learned in an approved school of professional nursing. Acts of medical diagnosis or prescription of medical, therapeutic, or corrective medical measures by a nurse are prohibited."

(Emphasis added.)

R.C. 4723.15 reads as follows:

"'Practical nursing' means the performance for compensation of nursing services requiring the employment of technical skills, a basic knowledge of biological and behavioral sciences and of nursing procedures acquired through a course in an approved school of practical nursing and performed at the direction of a licensed physician, licensed dentist, or other person legally authorized to prescribe medical or dental treatment or at the direction of a registered nurse, provided, however, the practice of practical nursing shall not be construed to include services rendered by technicians and medical assistants under the direction or control of a licensed physician or dentist.

"Acts of medical diagnosis or prescription of medical, therapeutic, or corrective medical measures by a nurse are prohibited.

"This section does not apply to persons employed as nursing aides, attendants, orderlies, or other auxiliary workers in patient homes, nurseries, nursing homes, hospitals, or other similar institutions.

"A licensed practical nurse is a person who has complied with sections 4723.01 to 4723.38, inclusive, of the Revised Code, and has been granted a license to engage in practical nursing by the board of nursing education and nurse registration."

(Emphasis added.)

It can readily be seen, from the emphasized language in these Sections, that the definitions of professional nursing and practical nursing speak to services performed for compensation. Therefore, the prohibitions against unlicensed practice apply only to practice for compensation. Had the General Assembly intended to require licenses for volunteer nurses, it could have done so merely by omitting the words "for compensation" in R.C. 4723.06 and 4723.15. Since only compensated practice requires a license, by implication, uncompensated practice does not. The applicable rule of statutory construction is the maxim expressio unius est exclusio alterius, the mention of one thing implies the exclusion of all others.

In a similar context, my predecessors have held that R.C. Chapter 4731. does not prohibit the rendering of medical treatment by a person not licensed as a physician, on a purely charitable basis because the definition of the practice of medicine in R.C. 4731.34 contains the term "for compensation." Opinion No. 1751, Opinions of the Attorney General for 1952, pages 608,620-621; Opinion No. 3197, Opinions of the Attorney General for 1962, page 622 (overruled on other grounds by Opinion No. 70-153, Opinions of the Attorney General for 1970). The same reasoning and conclusion apply here by direct analogy.

Therefore, it is my opinion and you are so advised that a nurse who is not currently licensed to practice professional nursing or practical nursing in Ohio may nevertheless provide nursing services on a purely volunteer basis, without compensation.