

BEFORE THE ALABAMA BOARD OF NURSING

IN THE MATTER OF:) PETITION FOR
) DECLARATORY RULING
DOROTHY E. FORDE, LICENSE NO. 1-033050)
)
Petitioner.)

DECLARATORY RULING

COMES NOW the Alabama Board of Nursing, by and through its Executive Officer Peggy Sellers Benson, RN, MSHA, MSN, NE-BC, and issues the following ruling:

QUESTION PRESENTED

Pursuant to Alabama Board of Nursing Administrative Code § 610-X-9-.07 and 610-X-9-.09, may Forde be granted relief from role/population certification for a clinical nurse specialist until such time as a national certification examination is available and be authorized to use the designation "CNS" to imply that Forde is a clinical nurse specialist?

FINDINGS OF FACT

1. By petition dated October 7, 2020, Dorothy E. Forde, a licensed registered nurse in Alabama, submitted a petition for declaratory ruling.
2. Forde seeks a declaratory ruling that she be allowed to utilize the CNS credential without having obtained a CNS certification because no CNS certification examination existed at the time that Forde graduated from her CNS educational program.
3. On or about December 16, 2011, Forde was awarded a Master of Science in Nursing, with a Concentration of Clinical Nurse Specialist: Growing Family, by Loma Linda University, Loma Linda, California. The population focus for Growing Family is birth through adolescence. As a part of this degree, Forde successfully completed courses in advanced physical assessment, pharmacology in advanced practice, and pathophysiology. She also completed a clinical practicum in Growing Family. Forde provided evidence that she was granted a Clinical Nurse Specialist (CNS) Certificate by the State of California Board of Registered Nursing on October 2, 2014 (Certificate Number CNS4221).
4. On or about May 31, 2018, Forde earned a Ph.D. in Nursing from the University of San Diego. Forde is currently engaged in a research study regarding the effects of daily skin-to-skin contact compared to standard care on the stress responses of late preterm infants in the first week of life. She is listed as one of the authors in the Journal of Perinatology article "Oral dextrose reduced procedural pain without altering cellular ATP metabolism in preterm neonates: a prospective randomized trial." Journal of Perinatology, published online February 26, 2020. She is also a primary author of a 2020 report entitled "Oxidative Stress Biomarker Decreased in Preterm Neonates Treated with Kangaroo Mother Care."

5. Forde's clinical experience includes working as neonatal intensive care unit (NICU) nurse for over ten years and as a clinical nurse educator in the NICU for eleven years. Her responsibilities included quality improvement initiatives for developing and delivering educational leadership, didactic training, and simulation training to new nurses and physicians. Forde worked as a former US Consulate Nurse in the Congo, and in 2010, was sent on a joint collaboration by USAID/Loma Linda University with the Palestinian Health Sector Reform and Development Project (Flagship Project) to upgrade the standards of two hospitals in Palestine. Forde was appointed to a post-doctoral fellowship at the University of California, San Francisco, School of Nursing NIH-funded Biobehavioral Research Program in Symptom Science from September 2018 to August 2020. She has also worked as a postdoctoral fellow for the Preterm Birth Initiative California. Forde earned certification in Neonatal Intensive Care Nursing from the National Certification Corporation, on or about Jun 15, 2006, and is currently certified through June 15, 2021.

6. There is not now, nor was there at the time of her graduation from her CNS program, a CNS certification examination for Growing Family.

JURISDICTION

Pursuant to Section 41-22-11 of the Code of Alabama (1975), the Alabama Board of Nursing has jurisdiction to issue declaratory rulings with respect to the validity of a rule, with respect to the applicability to any person, property or state of facts of any rule or statute enforceable by it, or with respect to the meaning and scope of any order of the agency, if a written petition for declaratory ruling is filed by a person who states with specificity the reason why the person is substantially affected by the rule at issue. See also Alabama Board of Nursing Administrative Code § 610-X-1-.09. Forde is substantially affected by the Board's rule regarding Clinical Nurse Specialist practice.

CONCLUSIONS OF LAW

1. A petition for declaratory ruling to the Alabama Board of Nursing should state the name and address of the petitioner, a statement of facts sufficient to show that the petitioner is substantially affected by the rule, and identification of the rule, statute or order and the reasons for the questions. Alabama Board of Nursing Administrative Code § 610-X-1-.09. Petitioner has satisfied these requirements.

2. Section 34-21-81(4)(d) of the Code of Alabama (1975) provides:

(4) **ADVANCED PRACTICE NURSING.** The delivery of health care services by registered nurses who have gained additional knowledge and skills through successful completion of an organized program of nursing education that prepares nurses for advanced practice roles as certified registered nurse practitioners, certified nurse midwives, certified nurse anesthetists, and clinical nurse specialists:

d. Practice of clinical nurse specialist (CNS) nursing means the performance of nursing skills by a registered nurse who, through study and supervised practice at the graduate level and as evidenced by certification, has advanced knowledge and practice skills in a specialized area of practice, except that a clinical nurse specialist may not do any of the following:

1. Perform delegated medical acts or engage in collaborative practice as described in this article.

2. Perform any of the functions of a certified registered nurse practitioner or a certified nurse midwife as described in this article and the regulations adopted under this article, whether or not performed within a collaborative practice relationship.
3. Prescribe drugs of any type. A clinical nurse specialist may perform nursing services permitted under this subdivision as an independent contractor.

Section 610-X-9-.08 of the ABN Administrative Code sets forth the following qualifications for approval to practice as a Clinical Nurse Specialist.

- (1) An applicant for approval to practice as a clinical nurse specialist shall have:
 - (a) An active Alabama registered nurse license or a multistate registered nurse license issued by a party state, as defined in Chapter 4 of these rules. Initial applicants shall have an active registered nurse license unless authorized by the Board.
 - (b) A master's or higher degree, or post-master's certificate, in nursing from an accredited educational institution in a curriculum designed to prepare clinical nurse specialists.
 - (c) Certification by a national certifying agency recognized by the Board in the clinical specialty consistent with educational preparation and appropriate to the area of practice.

Section 610-X-9-.08 of the ABN Administrative Code states:

- (2) The registered nurse seeking approval as a clinical nurse specialist in a specialty for which no national certification examination is available may petition the Board for a declaratory ruling pursuant to Rule 610-X-1-.09.

RULING

The Petition for a Declaratory Ruling is hereby granted, and the Alabama Board of Nursing hereby rules as follows:

1. Forde has an active, unencumbered Alabama RN license and a Master's degree in nursing from an accredited educational institution in a curriculum designed to prepare clinical nurse specialists. She also has a Ph.D. No national certification examination currently exists for Growing Family Clinical Nurse Specialist, which was the focus of Forde's Master's degree.
2. Based on an individual review of Forde's specific education and clinical experience, and because there is no CNS certification examination available, the ABN will permit Forde to use the credential Clinical Nurse Specialist (CNS) – Growing Family upon receipt of documentation that Forde continues to maintain certification from the National Certification Corporation in **Neonatal Intensive Care Nursing**.
3. During her practice as a CNS – Growing Family based on the NCC Neonatal Intensive Care Nursing certification, Forde will be required to comply with all applicable standards and scope of practice, congruent with Alabama law, and additionally adhere (as

congruent with Alabama law) to the Association of Women's Health, Obstetrics and Neonatal Nursing/National Association of Clinical Nurse Specialist (NACNS) Women's Health CNS Competencies but with a scope of practice limited to newborn and family adaptation.

4. In the event that a national certification examination in Growing Family CNS or a related focus for which Forde would meet the eligibility criteria becomes available, Forde will be required to obtain that certification, and her certificate of qualification to engage in practice as a CNS will not be further renewed based on the NCC Neonatal Intensive Care Nursing certification.

DONE and **ORDERED** on this the 13th day of November, 2020.

ALABAMA BOARD OF NURSING



PEGGY SELLERS BENSON RN, MSHA, MSN, NE-BC
Executive Officer