

BEFORE THE ALABAMA BOARD OF NURSING

IN THE MATTER OF:) **PETITION FOR**
)
U. S. DEPARTMENT OF) **DECLARATORY RULING**
TRANSPORTATION)
)
Petitioner.)

ORDER

Comes now the Alabama Board of Nursing, by and through its Executive Officer, N. Genell Lee, RN, MSN, JD, and issues the following ruling:

FINDINGS OF FACT

1. On February 19, 2003, the Petitioner, Judy C. Van Luchene, Division Administrator of the U. S. Department of Transportation, Federal Motor Carrier Safety Administration, submitted to the Alabama Board of Nursing a request for a declaratory ruling as to whether Registered Nurses and Licensed Practical Nurses in the State of Alabama may be considered medical examiners as defined by the Federal Motor Carrier Safety Regulations so as to be qualified to perform histories and physicals on drivers of commercial motor vehicles.

2. The term "Medical Examiner" is defined in 49 CFR § 390.5 as "a person who is licensed, certified, and/or registered, in accordance with applicable state laws and regulations, to perform physical examinations. The term includes but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic."

3. The U. S. Department of Transportation is the regulatory agency responsible for enforcement of the Federal Motor Carrier Safety Regulations and, as such, must ascertain the qualifications of licensed nurses to serve as a medical examiner as defined in the Federal Regulations. The Department has informed the Alabama Board of Nursing that both RNs and LPNs are currently performing physical examinations of drivers of commercial motor vehicles in the State of Alabama.

4. Pursuant to Alabama Board of Nursing Administrative Code § 610-X-6-.03(3) and § 610-X-6-.04(3), the scope and level of practice for RNs and LPNs includes but is not limited to:

- (a) Educational preparation, initial and continued;
- (b) License status, including Board approval for advanced practice nursing;
- (c) State and federal statutes, and regulations;
- (d) State and national standards appropriate to the type of practice;
- (e) Nursing experience;

- (f) Demonstrated competence; and
- (g) Knowledge, skills, and ability to manage risks and potential complications.

CONCLUSIONS OF LAW

1. The Alabama Board of Nursing has the authority to issue this declaratory ruling pursuant to the Alabama Board of Nursing Administrative Code § 610-X-1-.11.
2. The Petitioner is substantially affected by Code of Alabama, 1975, § 34-21-1(3)(a)(b) and Alabama Board of Nursing Administrative Code § 610-X-6-.02(2); § 610-X-6-.03(3) and § 610-X-6-.04(3) all which serve to define the scope of RN and LPN nursing practice but provide little guidance as to said licensees ability to serve as a "Medical Examiner" pursuant to these federal regulations. The Petitioner, U. S.

Department of Transportation, requires a ruling from the Alabama Board of Nursing as to the categories of licensees who, under Alabama law, are eligible to qualify as a "Medical Examiner" under the Department of Transportation rules.

RULING

Advanced Practice Nurses licensed in the State of Alabama may qualify to perform physical examinations of drivers of commercial vehicles in accordance with the Federal Motor Carrier Safety Regulations. Registered Nurses and Licensed Practical Nurses licensed in the State of Alabama do not meet these qualifications and are not qualified to perform these physical examinations.

DONE and **ORDERED** this 20th day of March, 2003.
ALABAMA BOARD OF NURSING

N. GENELL LEE, RN, MSN, JD
EXECUTIVE OFFICER