

Opinion No. 89**Nursing — Medicine —
Venapuncture**

H E L D : Venapuncture (intravenous technique) by a professional nurse, upon order of a doctor of medicine, is a professional nursing service and not the practice of medicine.

November 9, 1956

Miss Anna T. Beckwith
Executive Secretary
Montana State Board of Nursing
Sam W. Mitchell Building
Helena, Montana

Dear Miss Beckwith:

Official opinion is given herewith upon your request and in response to the factual situation contained in your letter.

For some years and in certain localities the practice by some doctors has been to leave written orders to the nursing staff to administer treatment involving venapuncture, commonly known as intravenous injection. This practice has required that the technique be taught in the nursing schools. Your concern is whether such treatment given by the professional nurse is a violation of the Medical Practice Act or may such treatment be considered a professional nursing service.

It must be clearly understood that this opinion concerns only the "professional nurse" and not the "practical nurse" whose duties are delineated by Chapter 12, Title 66, R.C.M., 1947, and amendments thereto. Further, it must be remembered that this opinion does not treat of civil or "tort" liability but only of rights and correlative duties imposed by the State of Montana in the exercise of its police power.

INTRAVENOUS TREATMENT GIVEN BY A PROFESSIONAL NURSE UPON ORDER OF A DOCTOR OF MEDICINE IS NOT "PRACTICING MEDICINE" WITHIN THE DEFINITION EXPRESSED BY SECTION 66-1007 (2), R.C.M., 1947.

The section above referred to defines practicing as holding oneself out as a doctor of medicine, and/or professing to cure, treat or relieve by using or prescribing; or recommend, prescribe or direct for the use of another any drug, medicine, etc. . . . for compensation.

It is only upon order of a doctor of medicine that venapuncture may be carried out. If the nurse, on her own initiative, directs or attempts venapuncture, she would, of course, be "prescribing, recommending or directing" and such would be a violation of that statute.

The delineation of professional nursing as found in Section 66-1222 (1), R.C.M., 1947, is a general one and is herein set out:

"(1) A person practices professional nursing who for compensation or personal gain, performs

any professional nursing service requiring the application of principles of the biological, physical or social sciences and nursing skills in the care of the sick, in the prevention of disease or in the conservation of health."

Certainly, venapuncture is an "application of principles of a physical science", and although such treatment can be inherently dangerous in the absence of a trained and skilled administrator, by the very term "professional nurse" the requisite training and skill are implied. Further, it is perhaps not part of the nurses' traditional independent functions but more properly part of the nurses' role in the doctor-nurse team. The professional nurse of today must perform, either by herself or as a member of that doctor-nurse team, duties as complex as medicine itself. Professional nursing, as such, cannot be confined to certain traditional duties, if such was the past history of the profession then her duties would have progressed only to the dignity of a paid companion.

It might be argued that venapuncture should only be carried out under the immediate supervision of a doctor, but the same argument and reasons advanced would apply to all the duties of the professional nurse. It is necessary that the nurse giving such treatment must have specific instructions from the doctor. If this is done she need not account.

It is therefore my opinion that venapuncture (intravenous technique) by a professional nurse, upon order of a doctor of medicine, is a professional nursing service and not the practice of medicine.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.