



**WILLIAM J. SCOTT**  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD



January 9, 1976

FILE NO. S-1033

**HEALTH:**  
Administration of Medication  
by Unlicensed Personnel

Joyce C. Lashof, M.D.  
Director  
Department of Public Health  
Suite 450  
535 West Jefferson Street  
Springfield, Illinois 62761

Dear Dr. Lashof:

This is in response to your letter in which you  
state:

"The Illinois Department of Public Health  
is responsible for the administration of the  
'Nursing Homes, Sheltered Care Homes and Homes  
for the Aged Act' Chapter 111 1/2, Paragraphs  
35.16 through 35.31. Paragraph 35.19 authorizes  
the Department of Public Health to prescribe  
Minimum Standards, Rules and Regulations, which

Joyce C. Lashof - 2.

among other things relate to '(b) number and qualifications of all personnel, including management and nursing personnel, having responsibility for any part of the care given to residents. . .'. Paragraph 35.26 further provides that the Department of Public Health may adopt and enforce rules and regulations relating to the operation and conduct of nursing homes and the care, treatment, rehabilitation, recreation, and maintenance of the residents thereof.

The Illinois Nurse Practice Act (Chapter 91, Section 35.35) defines 'professional nursing' and 'practical nursing'. The definition of 'professional nursing' includes '. . . (c) the administration of medications and treatments as prescribed by a licensed physician or dentist . . .'. This section further provides 'Practical nursing' means the performance for compensation of acts in the care of the ill, injured, or infirm, selected by and performed under the direction of a registered professional nurse or a licensed physician or a licensed dentist, not requiring the substantial skill, judgment and knowledge required in professional nursing.'

Further, the Nurse Practice Act (Section 35.54) provides that no person shall practice professional nursing without a valid certificate as a registered professional nurse or practice practical nursing without a valid certificate as a licensed practical nurse. However, Paragraph 35.34 provides 'No person shall practice or attempt to practice nursing, as a licensed practical nurse, without a certificate as a licensed practical nurse issued by the Department. This Act does not apply to persons employed as nursing aids, attendants, orderlies and other auxiliary

Joyce C. Lashof - 3.

workers in private homes, nursing homes, nurseries, hospitals or other institutions.'

The Department of Public Health has prescribed a regulation which provides in essence that only registered professional nurses, licensed practical nurses and licensed physicians will be permitted to administer medications to patients in nursing homes. A question has arisen as to whether this regulation is too restrictive in light of the language of section 35.34 of the Illinois Nurse Practice Act.

This Department has attempted to reconcile the provisions of the Illinois Nurse Practice Act referred to above in an effort to determine whether medications are permitted to be administered by nursing personnel other than registered professional nurses or licensed practical nurses. However, to the best of our knowledge there have not been any case decisions or Attorney General's opinions interpreting or construing these provisions.

Therefore, we respectfully request your opinion as to whether nurse aides, orderlies, and attendants employed in nursing homes would be permitted to administer medications to patients in nursing homes or whether the administration of medications constitutes the practice of professional nursing and practical nursing and therefore may be administered only by nursing personnel who possess certificates as registered professional nurses or licensed practical nurses."

Section 1 of "AN ACT in relation to the licensing and regulation of homes for the maintenance, care, or nursing of

Joyce C. Lashof - 4.

persons who are ill, aged or physically infirm, etc." (Ill. Rev. Stat. 1973, ch. 111 1/2, par. 35.16) defines "Nursing" as:

"'Nursing' means professional nursing or practical nursing, as these terms are defined in Section 4 of 'The Illinois Nursing Act', approved June 14, 1951, as heretofore or hereafter amended, for sick or infirm persons who are under the care and supervision of licensed medical practitioners."

The Illinois Nursing Act (Ill. Rev. Stat. 1973, ch. 91, pars. 35.32 et seq.) provides for a scheme of licensing and regulation of personnel who perform various specified acts in the care of the sick or infirm. Section 4 of the Act defines certain of these acts as either "Professional Nursing" or "Practical Nursing". Section 2 of the Illinois Nursing Act (Ill. Rev. Stat. 1973, ch. 91, par. 35.33) provides that no person shall engage in an act of "Professional Nursing" without a license. Section 3 of the Illinois Nursing Act (Ill. Rev. Stat. 1973, ch. 91, par. 35.34) provides that no person shall engage in an act of "Practical Nursing" without a license.

Joyce C. Lashof - 5.

Section 4(1) of the Illinois Nursing Act, supra,  
defines "Professional Nursing" as follows:

"1. 'Professional nursing' means the performance for compensation of any nursing act (a) in the observation, care and counsel of the ill, injured or infirm; or (b) in the maintenance of health or prevention of illness of others; or (c) the administration of medications and treatments as prescribed by a licensed physician or dentist; or (d) any act in the supervision or teaching of nursing; any of which requires substantial specialized judgment and skill and the proper performance of which is based on knowledge and application of the principles of biological, physical and social science acquired by means of a completed course in an approved school of professional nursing. The foregoing shall not be deemed to include acts of medical diagnosis or prescription of therapeutic or corrective measures."

Section 4(3) of the Illinois Nursing Act defines  
"Practical Nursing" as:

"3. 'Practical nursing' means the performance for compensation of acts in the care of the ill, injured, or infirm, selected by and performed under the direction of a registered professional nurse or a licensed physician or a licensed dentist, not requiring the substantial skill, judgment and knowledge required in professional nursing."

Your question arises under section 3 of the Illinois  
Nursing Act (Ill. Rev. Stat. 1973, ch. 91, par. 35.34, as amended

Joyce C. Lashof - 6.

by P.A. 79-299) which states as follows:

"§ 3. No person shall practice or attempt to practice nursing, as a licensed practical nurse, without a certificate as a licensed practical nurse issued by the Department. This Act does not apply to persons employed as nursing aids, attendants, orderlies and other auxiliary workers in private homes, nursing homes, nurseries, hospitals or other institutions."

The second sentence of section 3 provides that the Act does not apply to persons employed as nursing aids, attendants, orderlies and other auxiliary workers. You ask whether this sentence means that nursing aids, attendants, orderlies and other auxiliary workers are permitted to administer medications to patients in nursing homes. The answer is clearly "no"; the sentence means only that nursing aids, attendants, orderlies and other auxiliary workers are not subject to the Act.

Section 4 of the Illinois Nursing Act does not define acts which are or may be performed by "nurse aids, attendants, orderlies and auxiliary workers". Therefore, the commonly understood meaning of these terms should be ascribed to them. The Dictionary of Occupational Titles, Volume 1, page 493 (1965)

Joyce C. Lashof - 7.

defines "Nurse Aid" as follows:

"NURSE AID: Assists in care of hospital patients, under direction of nursing and medical staff; Answers signal lights and bells to determine patients' needs. Bathes, dresses, and undresses patients. Serves and collects food trays and feeds patients requiring help. Transports patients to treatment units, using wheelchair or wheeled carriage, or assists them to walk. Drapes patients for examinations and treatments, and remains with patients, performing such duties as holding instruments and adjusting lights. Dusts and cleans patients' rooms. Changes bed linens, runs errands, directs visitors, and answers telephone. Takes and records temperature, pulse and respiration rates, and food and liquid intake and output, as directed. May apply compresses and hot water bottles. May clean, sterilize, store, prepare, and issue dressing packs, treatment trays, and other supplies \* \* \* May prepare patients for delivery and clean delivery rooms, \* \* \* May bathe, weigh, dress and feed newborn babies \* \* \* May clean, sterilize, and assemble into packs, supplies and instruments used in surgery, and maintain cleanliness and order of operating rooms \* \* \*

The same dictionary defines "Orderly" as follows:

"ORDERLY: Performs any combination of following duties, as directed by nursing and medical staff, to care for hospitalized male patients; Bathes patients and gives alcohol rubs. Cleans and shaves hair from skin area of operative cases. Measures and records intake and output of liquids, and takes and records temperature

Joyce C. Lashof - 8.

and pulse and respiration rate. Gives enemas. Carries meal trays to patients. Lifts patients onto and from bed, and transports patients to hospital areas, such as operating and X-ray rooms, by rolling bed, or using wheelchair or wheeled stretcher. Sets up equipment, such as oxygen tents, portable X-ray machines, and overhead irrigation bottles. Places anesthesia equipment near operating table, and assists in holding patient on table during administration of anesthetic. Sets up bone fracture equipment and assists PHYSICIAN in putting on casts and braces. Maintains supply of hospital clothing for attending PHYSICIANS. Makes beds and collects soiled linen. Cleans rooms and corridors. Bathes deceased patients, accompanies body to morgue, and places personal belongings in mortuary box. May administer catheterizations and bladder irrigations. May accompany discharged mental patients home, or those transferred to other institutions."

In Phillips v. Buffalo General Hospital, 239 N.Y. 186, 146 N.E. 199, the court noted that an orderly is one who does general work, while a nurse is one who cares for the sick. In Mayor v. Trunk, 190 A. 756, in dealing with a Workman's Compensation case, the court defined a hospital orderly as follows:

"'Hospital orderly' is primarily a male attendant in a hospital who is charged with maintenance of order and cleanliness, and of giving menial service and personal attention,  
\* \* \*"



Joyce C. Lashof - 9.

The General Assembly categorized "Nurse Aids" and "Orderlies" as auxiliary workers. Webster's Third New International Dictionary defines "auxiliary" as "one that helps; one that functions or serves in a supplementary, often subordinate position".

The administration of medications does not fall within the commonly performed duties of nurse aids and orderlies. Therefore, the General Assembly, under section 3 of the Nursing Act, has determined that anyone performing only general housekeeping services need not be licensed as a professional or practical nurse. It still remains that anyone who chooses to perform an act which is encompassed within the definition of either professional or practical nursing must first satisfy the State of his qualifications. Ill. Rev. Stat. 1973, ch. 91, pars. 35.31, 35.34, 35.39, 35.40.

I conclude in answer to your question that nursing aids, orderlies, attendants, and other auxiliary workers who are employed in nursing homes are not permitted to administer

Joyce C. Lashof - 10.

medications to patients in nursing homes.

Very truly yours,

A T T O R N E Y G E N E R A L