

Nurse Practitioners in the World of Pain Management: A Cautionary Tale

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ABSTRACT

This article addresses balancing pain management concerns of patients and legal issues faced by nurse practitioners.

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The following is based on a true story. A pseudonym is used to protect the privacy of the nurse practitioner (NP). This NP ran her own private practice and dabbled in pain management. The article addresses the raid on her practice and the subsequent investigation by her state's board of nursing. Emphasis is placed on standard of care violations asserted by the board of nursing, defenses maintained by the NP, and standard of care practice tips that can be learned from this case.

SCENARIO: A PRACTICE UNDER SIEGE

It was a typical morning at the office for Rosemary Whitford, an NP who ran her own family medicine clinical practice. Her husband, who served as the office manager and receptionist, had just turned on the computer at the front desk and walked back to the kitchen to get a cup of coffee. The office assistant was checking the examining rooms to make sure each was stocked with necessary supplies. Nurse Whitford was putting on her white jacket and placing her stethoscope around her neck. In the waiting room, the first patient of the day, an elderly woman with a history of hyperlipidemia, hypertension, and diabetes, had just sat down with her caregiver, who had driven her to the clinic. All was as it should be, until it wasn't.

With no warning, the front door to the clinic burst open and 6 shadowy figures streamed into the waiting room. Nurse Whitford heard a commotion

and a pounding on the door that led from the waiting room to the offices. She reached that door just as her husband opened it to investigate the disturbance. The couple was met with pistols and assault rifles wielded by intruders in ski masks and dressed entirely in black.

With the muzzle of his rifle only inches from her cheek, the stranger closest to Nurse Whitford ordered her to lay face down on the floor and put her hands behind her back. Similar commands were shouted at her husband and the nurse assistant. As Nurse Whitford quickly complied, she glanced past her captors and saw the elderly lady in the waiting room struggling at gunpoint to get down on her hands and knees. The caregiver was already prostrate and could do nothing to help her.

With her body flat on the floor, Nurse Whitford felt powerful hands pull her arms together behind her back and lock her wrists together with a restraint. Now she was completely helpless and knew there was no escaping what she believed was her imminent death. If these robbers were brazen enough to lay siege to her office with potential deadly force on a normal business day, then there was no reason to believe that they would spare their victims. Her mind raced from thought to thought as she pondered how this could have happened and how she was about to lose everything she had strived to accomplish over many years, but mostly she thought of her 3 teenage sons and how they would survive without their parents. She closed her eyes and prayed.

Nurse Whitford was jarred from her prayer when she heard shuffling as her husband and the office assistant, both with their wrists bound behind their

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backs, were lifted to their feet and led to the waiting room. Nurse Whitford was pulled from the floor and directed in a similar fashion. The captives were instructed to look straight ahead and not to talk to one another. A masked gunman stood in the doorway while the other marauders holstered their weapons and began moving file cabinets, computers, and servers from the office.

Eventually, Nurse Whitford was taken to her own office in the back of the building. There, she took notice of the identifying insignia on the clothing of the gunmen surrounding her. She recognized for the first time the large letters “DEA” emblazoned on their flak jackets. Only then did she realize that these were agents of the United States Drug Enforcement Agency (DEA). Although these officers likely identified themselves and their intentions upon entering the premises, Nurse Whitford had been too frightened to hear what had been said.

A woman entered the room wearing black boots, black pants, and a black flak jacket but no ski mask. She identified herself as a DEA agent. She then interrogated Nurse Whitford. A tape recorder lay between them to catch every word that was spoken.

The DEA agent told Nurse Whitford that they knew she was writing unauthorized prescriptions for controlled substances. She displayed a document that purportedly identified every recent prescription written by Nurse Whitford and demarcated those prescriptions that were controlled substances from those that were not. The DEA agent said that 55% of the prescriptions written by Nurse Whitford over the past 10 months had been for controlled substances. Nurse Whitford believed this allegation was wrong; she knew that 80% of her practice was devoted to family medicine and only 20% of her practice involved pain management, but terror stole her voice and prevented her from demanding her constitutional rights, including a right to an attorney.

Although Nurse Whitford was never told that she would be arrested and taken into custody, she assumed that this would be the case. She feared for her 3 sons and what would happen to them if she and her husband were taken to jail with no opportunity to see them. She could not control her trembling. Nurse Whitford had to see her children. She would

do anything to cooperate if it meant she would get home to them.

Toward the end of the interview, the DEA agent said, “You need to surrender your DEA certificate.” Nurse Whitford was not advised that she had a choice in the matter. She believed she had to surrender her DEA certificate or her business would be shut down, and she would be imprisoned. Nurse Whitford complied by signing a document that relinquished her authority to prescribe controlled substances. The agent then stood up and removed the controlled substance license from the frame on the wall where it was hanging. By that time, 2 members of the Texas Board of Nursing had arrived to observe the events. Shortly thereafter, the raiders left Nurse Whitford’s office, taking all of her computers and all of her patient records.

This raid effectively destroyed Nurse Whitford’s practice. Without the medical records or the computers, she could not send out bills for past medical treatment. Her ability to rely on her records in treating repeat patients was impaired because she no longer had their records to review. More importantly, she no longer could prescribe the most effective medications to her patients suffering from chronic pain. All she could do was limp along while the investigation into her practice plodded through the DEA and eventually through her state’s board of nursing.

In retrospect, the chance of a DEA raid on Nurse Whitford’s practice was a greater risk than she ever appreciated. For good or for bad, pain management is viewed by the DEA with some degree of skepticism. Nurse Whitford’s decision to enter the field of pain management opened to her a means of helping an often overlooked patient population in desperate need of help. It also provided her financial avenues previously unavailable, but it was fraught with peril she did not fully consider.

BACKGROUND

Nurse Whitford worked for many years as a registered nurse in various office and hospital settings before returning to school and getting a master’s degree in nursing, which landed her a job with a local pain clinic. After less than a year, Nurse Whitford left her full-time job at that clinic so that

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