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Inside



Register for the NMNA Annual Meeting
Page 2



Healthy Nurse Healthy New Mexico
Page 6



Nursing Continuing Professional
Development
Page 8

Liability Issues Corner

Revocability of Health Care Directive During a Patient and Family Conflict

Dr. Karen L. Brooks, Esq., EdD, MSN RN

This column will offer strategies for the nurse when there is family conflict concerning the care that is to be provided when an elderly family member is admitted to the hospital. The following hypothetical also includes a student nurse who is assigned to provide care to the elderly patient.

Mabel is 90 years old and had a fall at home. Although there were no broken bones, Mabel did suffer soft tissue bruising. Upon being admitted to the hospital the doctor's orders say, "comfort care only."

Mabel's niece Gretchen has gone through her aunt's papers. One document she found says that Gretchen has her Aunt Mabel's durable power of attorney. The document also specifies "no extraordinary care." Gretchen approaches Aunt Mabel's nurse and says, "I don't want anything done outside of bathing and feeding. It's my aunt's wishes."

Student nurse Adele is assigned to Mabel. Adele reports to her clinical instructor that Mabel is having a considerable amount of pain from the bruising on her leg. Furthermore, Mabel seems a little bit confused and appears a little pale. After all, she has just come into the hospital.

The clinical instructor goes with the student and says to Mabel, "Are you in pain? Would you like something for pain?" Mabel says, "Yes, I am very uncomfortable, and my hip really hurts."

The student nurse remembers about the niece and tells the clinical instructor. Niece Gretchen has a legal document in which Mabel has named Gretchen to be in charge of her healthcare. And Gretchen has forbidden all measures including comfort care.

In considering the aforementioned circumstances of the hypothetical, two primary considerations emerge. The first is the need to address the patient's request for pain medication. The second is the patient's ability to revoke, at any time, any of the terms, conditions and/or specifications that are written in the health care directive or health care power of attorney. Any written document pursuant to health care wishes of the patient should be verified.

The student was correct in communicating the patient's wishes with the clinical instructor along with information about the health care directive. It is of primary importance that the patient's wishes are respected, and that pain medication be provided as quickly as possible to this patient. Further, it would be prudent for the student and the instructor to communicate the patient's request with the staff nurse. From this point, the staff nurse should also communicate the patient's wishes to the niece so that the niece continues to be informed about the patient's care and request for pain management.

Report about the pain control request should be presented to the niece as *informational* only. The niece does not have to give approval on the patient's verbal request. A health care directive, or any part of it, is freely revocable by the patient at any time. It may be necessary to have a more detailed discussion or a family meeting with the niece so that she understands the revocability of the health care directive specifications. Also, any and all advocacy efforts for the patient, particularly as pertains to this issue, must be carefully documented in the patient's record.

Dr. Karen L. Brooks, Esq., EdD, MSN RN, a member of the New Mexico Nurses Association and the American Nurses Association contributes this column regularly to benefit the nurses of New Mexico. Dr. Brooks is the Graduate Nursing Faculty Lead (Remote: Santa Fe, NM) for the Global Campus of Southern New Hampshire University.

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One Nurse Leads Efforts to Improve Neonatal Practice Across New Mexico

Rachel Frija DNP, RN-BC

New Mexico's healthcare needs are unique due to our widely dispersed low-density population. This leads to obstacles for our families who need high acuity care, specifically in the neonatal field. Currently the infant mortality rate in NM is 5.9 deaths/1,000 births, higher than the national average (New Mexico Department of Health, 2018). Both the Society for Maternal Fetal Medicine (2016) and the STABLE program (2012) recommend high risk pregnancies be delivered at facilities with Neonatal Intensive Care Units (NICU); however, as many as nearly half of all infants requiring NICU services do not present with care needs until well into intrapartum process or immediately post-delivery. This poses an even greater challenge for New Mexico as all level III and IV Neonatal Intensive Care Units (NICU) are located in Albuquerque (American Academy of Pediatrics, 2019).

When a child born outside of Albuquerque requiring greater than NICU Level II services, the local care team is charged with stabilizing the neonate for transport. This process is frightening for the family and stressful for care team (Lee et al., 2019). Given the low frequency and associated risks the stakes are high. The interventions provided in the first hour of life are crucial to the infant's lifetime outcomes (Ecker et al, 2016; Karlsen, 2012). Healthcare providers and nursing staff who do not practice regularly in this specialty often lack the knowledge, skills, or confidence to perform these long impacting interventions correctly (Karlsen, 2012). One nurse educator, working at a Level III NICU facility, recognized the need to close this practice gap through ongoing NICU Education Outreach for rural facilities across New Mexico outside of the standard scope offer by her employer.

This nurse partnered with the Clinical Education department to successfully secure grant funding via

the New Mexico Nurse Excellence Fund through the NM Board of Nursing to sustain a team of highly skilled neonatal clinicians willing to provide education in-services monthly to improve the outcomes of neonates across the state. This project proposal was submitted before the NM Board of Nursing and approved at the June 2019 meeting. The education is focused on resuscitation and stabilization of infants resulting in certification for both Neonatal Resuscitation Program (NRP) and STABLE, programs designed to assist in the stabilization and treatment of an infant in preparation of transport (Ecker et al, 2016; Karlsen, 2012). The program consists of two 8-hour days of study with hands-on return demonstration. In addition to receiving a two year certification for both NRP and STABLE, the attendees will also be awarded continuing education hours. The goals of this outreach are to threefold:

- 1) increase confidence in caring for this unique population,
- 2) empower staff with the knowledge, skills, and attitudes required to provide high quality care to the specialty population prior to transport, and
- 3) improve the patient outcomes.

Success of this project will be measured using Kirkpatrick's model in addition to Level 5 Return on Investment. Outcome measurements include:

- | | |
|---------|--|
| Level 1 | increased clinical confidence, |
| Level 2 | successful program completion, |
| Level 3 | self-report incorporation of new skills into practice, |
| Level 4 | increased number of NRP and STABLE certified nurses and providers within New Mexico, and |
| Level 5 | decrease infant mortality rates across New Mexico. |

Shortly after the presentation one nurse in attendance from Grants shared "these certifications create confidence within the community and help us provide the best care possible for these families." The first outreach session was held in July and continues monthly till next July. Attendees have expressed their gratitude and appreciation for bringing this level of training to their home town. Thanks to this nurse educator's passion for her specialty there is the opportunity for positive impact for the most vulnerable New Mexicans and support for practice excellence for her nursing colleagues.

One challenge for this important education opportunity is promotion of the events. Those interested in NICU Education Outreach at your facility can contact Tyree Boyd, BSN, RN NICU Clinical Professional Development Specialist, Presbyterian Hospital via email TBoyd@pchs.org or Rachael Frija, DNP, RN-BC at (505) 471-3324.

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Re-Thinking Shared Governance: How Does the Profession Engage Itself?

Sheena M. Ferguson, MSN, RN, Doctoral Student

Our chosen profession of nursing can be defined as a profession because of the presence of several required elements:

1. A distinct body of knowledge which defines the profession;
2. A specific educational curriculum taught within a college that conveys skills to practice;
3. A written code of professional ethics advocated by a national organization (ANA);
4. Autonomy over professional practice; and
5. Oversight of professional members by a state licensing board (BON) for professional standards.

Interested readers may pursue research back to the middle ages where there were only three “true” professions: law, divinity and medicine. However, by the late 1800’s and early 1900’s, additional professions which met the required elements included social work, pharmacy, psychology, and yes, nursing (among others in health care).

The numbers within the profession continue to grow at a critical pace to meet the health care demands of the population, the advancement of the science, and the need for a delivery system that ensures quality outcomes. Now more than

ever the professional requirements are essential to solidly frame “what is nursing.” Yet not all within the profession have embraced the requirements for Nursing’s status as a profession. In other words, some nurses don’t understand their role in maintaining and advancing the profession. *Re-read the five elements above.* Exactly what is the profession doing to refine, expand and validate what is distinctly nursing knowledge? Is there a deliberate plan to ensure a quality curriculum taught by qualified educators? How many nurses don’t belong to the ANA or NMNA and therefore have no voice in the discussion? How is autonomy within the profession being maintained and expanded? And what is a nurse’s role in ensuring that fellow members of the profession are adhering to professional standards, protecting patients as well as the integrity of the profession?

Some key components within nursing departments are foundational as conversations about the profession of nursing are considered. Typically, there is a Professional Practice Model (PPM) for nursing. There are five subsystems within the PPM:

- 1) a delivery of patient care model: such as the roles of nurses, teams and case management;
- 2) a management team structure: such as decentralized decision-making and support for changes in clinical practice;
- 3) values of the nursing department: such as autonomy, accountability, quality care outcomes, professional development, and professional values;
- 4) interprofessional relationships structure: such as collaboration and teamwork; and
- 5) nursing clinical ladder describing benefits, and compensation: such as tuition assistance, certification and growth.

Think about the current PPM at your organization. The model is further defined by ensuring that care is delivered within the scope of professional nursing practice. However, if nurses don’t know what the Professional Practice Model or PPM is (informed autonomy), or nurses don’t know what the unit’s patient safety gaps are (just culture), and nurses haven’t participated in the conversations around practice standards or quality outcomes (participating in peer review), or nurses haven’t shared with their educators what is needed professionally (demonstrated competence), then we start to see erosion in the integrity of our profession.

Professional participation is not optional, and it is here where the discussions of Shared Governance are often misunderstood. It is not about the voice of the few, nor is it the voice of the management team. It is about the membership of the profession engaging in professional practice decisions. The literature is replete with impassioned discussions about Shared Governance. A re-emerging term is simply



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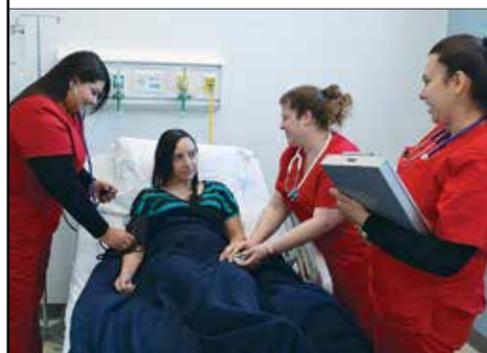


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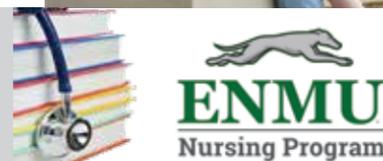
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Professional Governance. Why? Because within the required elements of a profession is the requirement that the membership must actually manage the profession. Nurses own their profession, it is not owned by another profession, nor a single segment within the profession. There is a requirement for accountability by nurses for the profession as a whole. Now look at your Shared Governance model. What are your thoughts about how well it works?

Do you embrace it? Does it make sense? Does it assist you in addressing your professional practice issues? Your nursing department probably has and should have documents providing guidance on each of the sub-systems. Other critical guidance about Peer Review, Just Culture, and Safe Harbor should assist Shared Governance in the same way as the PPM, and Delivery of Care Model documents.

Let's look at professional practice thru another lens. For example, if we look at our physician partners, we can see that medical professional autonomy exists within a physician's practice. Physicians direct medical care, assess, diagnose, perform interventions, write orders, and create a plan of care that requires ongoing evaluation. Sound familiar? However, there also exist medical staff by-laws that are policies and procedures and guidelines as a framework for that autonomous professional practice. Physicians must ensure that the professional integrity of medicine is maintained. Those medical staff by-laws are presented to a clinic or hospital board of directors for approval with ongoing review and evaluation of the impact on quality outcomes. Gaps in quality outcomes or patient care may result in an individual physician's practice being closely reviewed. To assist the physician in meeting standards of care, support and assistance would be given being to re-validate competency, participating

in additional review of care (peer review), or another remediation action (just culture). Autonomy doesn't mean a lack of accountability or erosion of standards of care. Physicians are also required to maintain regulatory competency and expectations as determined by the Department of Health or The Joint Commission. Medical board intervention may also be warranted in some cases of severe gaps in care standards.

So then, most health care professions are dealing with many of the same difficult issues in the membership managing their profession. That includes resources and budgets that may be shrinking due to decreased reimbursements. It is an exceptional opportunity to partner between disciplines to achieve creative solutions to mutual opportunities (see Porter-O'Grady, T. 2009. Interdisciplinary shared governance. Jones & Bartlett Learning Publishers: New York). How do we address barriers to optimal patient care outcomes, including resource shortages, threats to nurse's well-being, and threats to our profession? Use the gifts that come from being a profession: science, education, ethics, autonomy and professional standards.

Selected Resources:

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Sheena M. Ferguson's favorite title of self is "Nursologist." She has been selected to enter the American Nurse Advocacy Institute fellowship program and will be working closely with NMNA.

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NURSING CONTINUING PROFESSIONAL DEVELOPMENT

Part 2: Roles of the Nurse Planner and Planning Committee*

Suzanne J. Canfield, MBA, BSN RN, Nurse Peer Review Leader, New Mexico Nurses Association Accredited Approver Unit

The most significant roles in planning, implementing and evaluating Nursing Continuing Professional Development for which credit hours are awarded are the roles of the Nurse Planner and the Planning Committee. The Nurse Planner has several responsibilities and accountabilities for the activity.

The Nurse Planner must be a registered nurse who holds a current, unencumbered license and must have a minimum of a Baccalaureate Degree in Nursing. The activity may be one planned to address nursing

needs only, or it may be an *interprofessional* activity addressing needs of a healthcare team. If it is an interprofessional activity, the Nurse Planner must be part of the Planning Committee from the onset. In either case, the Nurse Planner must be actively involved in planning, implementing and evaluating the activity. He/she is responsible for:

- defining the **nursing** issue;
- identifying the gaps in **nursing** knowledge, skill or practice;
- completing a gap analysis; and,
- determining the learning outcome that closes the gap for **nurses** for the activity.

The Nurse Planners accountabilities include:

- Having knowledge of ANCC criteria and adult learning principles;
- Assuring that the applicant organization will comply with all ANCC criteria;
- Evaluating all persons involved in the activity who can influence the content of the activity for conflict of interest;
- Resolving any conflicts of interest;
- Evaluating all content for relation to a commercial interest entity;
- Maintaining retrievability of all application information including the hours awarded to each participant for six years after the last date of the activity;
- Attesting that the information on the application is true, correct and complete.

The Planning Committee follows as the next important piece of Nursing Continuing Professional Development and must have a minimum of two members. Besides a Nurse Planner, the Planning Committee must include a Content Expert, who has education and/or experience in a particular subject. *The Nurse Planner may be the Content Expert.* If the Nurse Planner is also the Content Expert, at least one other person must be chosen for the Planning Committee. Possible members include:

- Staff nurses;
- Advance Practice Nurses;
- Nurses in all levels of leadership;
- Stakeholders in various professional areas, i.e., Education, Quality, Medicine, Pharmacy, Therapy modalities, Finance, Infection Prevention and Control;
- Presenters.

Once selected the Planning Committee continuously analyzes the identified gap, identifying the root cause of the issue sparking the need for the learning activity. If the cause is related to knowledge, skill and/or practices of registered nurses, then an educational activity is appropriate and planning should continue. If the cause is related to another type of issue, an alternative solution, other than education, should be determined.

Part 3: Activity Type, Target Audience and Active Strategies for Nursing Continuing Professional Development will be provided in the next issue of *The New Mexico Nurse*.

Reference:

American Nurses Credentialing Center. (2015) 2015 Primary Accreditation Approver Application Manual (1st ed.) Silver Spring, MD.

*This series is provided by Suzanne J. Canfield, MBA, BSN RN, a past member of the NMNA Board of Directors, past Vice President of the Association and has served as a Delegate to the AN Membership Assembly. She currently serves as a representative for NMNA to the Los Alamos Community Health Council.

The NM Nurse Practice Act remains a standard for which many state nursing communities strive. It is one of the first in the country that envisioned nurses practicing to the full extent of their education and training and one of the first to require continuing education for re-licensure because of the professional practice envisioned. With the myriad of online courses it is important for RNs in NM to look at the quality of the continuing educational offering, understand what is entailed in creating an offering, and who was involved in the development. The requirement of continuing education should not become a last minute thought, should include in-person offerings and allow for life-long learning.



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Tips for your Next Job Search

Melissa Marrero MSN, RN, CWCN

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Today's nursing job search heavily relies on online applications and networking strategies. In larger organizations, before the recruiter, you need to get through the recruitment assistant and the software platform to get your foot in the door. Here are some basic tips from the recruitment perspective to help your next job hunt:

PERSONALIZE YOUR APPLICATION

The most valuable advice I received when starting my job search was that résumés are not meant to get you a job, they get you an interview. Nurses that are looking for a new position need to remember each job is unique, so your application and résumé cannot be "one size fits all." Read the job description carefully. Make sure eligibility requirements are covered in your résumé. With hundreds of applicants, you won't be getting a call to double check your GPA or certifications, make sure it is clear you have what they are asking for. Use key phrases from the job description in your résumé; this will pull your application higher on the software match list.

HONESTY

Do not lie. It may seem like common sense, but it happens surprisingly often. Embellishment easily shifts to falsehood. Familiarity with a language and fluency are two different things. If you were a Customer Service Representative, do not give yourself a new title of Vice President of Patient Experience because it sounds better. Recruiters will be performing reference checks and background checks and eventually you will have a conversation face-to-face where your skills may be put to the test.

STRONG REFERENCES

Ask people if they will act as a reference before you share their contact information and let them know the jobs you have applied for and why you are interested in the position. Be self-aware of your performance when you worked with that person; will they say the things that a new employer will want to hear?

OPPORTUNITIES TO NETWORK

Seek out opportunities for face-to-face engagement. This does not mean show up at Human Resources without an appointment or trying to connect to every employee on LinkedIn! Take advantage of offerings that allow you to mingle with current employees (walk-in career fairs, volunteer events, lectures open to the public) and strike up conversations, then *strategically* build your online connections with people in the organization.

IF YOU GET AN INTERVIEW, SHOW UP OR HAVE THE COURTESY TO CALL

Interview "no shows" are on the rise; this is a huge strain on time, energy, and resources. The recruiter you snub will remember your name the next time you are looking for a move. Managers and supervisors all attend the same meetings and vacancies and candidates come up in conversation quite frequently. You do not want your reputation to include being inconsiderate or unreliable in a profession built on trust and compassion. If you get another offer or your plans for employment change, any reasonable recruiter will understand, pick up the phone and call!

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The Ethical Oath of Advocacy: A Nurse's Promise

Karen Kiefer, APN, NP-C, RN-BC

Reprinted with permission from the New Jersey Nurse, October 2019, Volume 49, Number 4.

As nurses we see and assist people during the most vulnerable and private times in their lives. We are physically and emotionally present often feeling the burden, honor and spirit of walking them through painful and frightening experiences. We guide them through understanding, acceptance and participation in their healthcare (Sommaruga, et al. 2016). The impact we (knowingly or unknowingly) impart does not end with the transition of patient to home, other health facilities or even death. We can do so much more for ourselves, our patients and families.

I challenge you to join public advocacy groups and use your experience, knowledge and desire that you choose and continue to work in nursing. Nurses are one of the most trusted professions interacting with the public (Sommaruga et al., 2016). The American Nurses Association Code of Ethics addresses advocacy, education and affects change in public policy and legislation (ANA, 2019). Participation includes public advocacy organizations, professional organizations, participation in public hearings regarding health issues and national work groups for healthcare issues (Taylor, 2016). Nurses can and do lead on boards of public advocacy organizations and Nightingale, continuing through the present day. A contemporary example is NJ Assemblywoman Nancy Munoz who is impacting healthcare policy and legislation.

I challenge nurses to become involved in public concerns that are present and concrete. Examples include the opioid epidemic, chronic diseases, the rise of elderly population and access to insurance and healthcare (Office of Disease Prevention and Promotion, 2019). There is a need to assist the public in understanding the impact of chronic conditions with actions of education, and inclusion within the healthcare team resulting in increased daily function and decreased hospitalizations (MacLeod et al., 2017). I have chosen to become involved in groups such as the American Pain Foundation and the pain community (thepaincommunity.org) It provides an opportunity for professional and personal growth honoring the oath for education, advocacy and the inferred promise of disruptive change to advance health, promote comfort, and provide emotional support (CDC, 2019) The non-profit website provides virtual support groups,

education, an opportunity for expression via blogs, research and tools for patients and caregivers. The information provided increases healthcare literacy, patient centered care using research and credible information. As a board member I implore you to look at public advocacy organizations and find your place, and impact many people who benefit from your experience, knowledge and vocational mission.

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Strengthening Workplace Violence Prevention

Donna M. Fountain, RN, PhD

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In 2018, the Joint Commission acknowledged the seriousness of physical and verbal violence against healthcare employees, particularly among nurses, and other health care workers as a Sentinel Event (TJC). Federal policy against workplace violence is vital. However, dependency on legislative action alone is not enough. A dynamic leadership presence across patient-care units is needed to enforce efforts to prevent violence. Typically, sources of violent behavior against nurses vary from patients and family, visitors, and other colleagues. The nursing profession desperately needs stronger policy guidelines to identify, prevent, and mediate all forms of violence at work. Studies have shown that violence against hospital nurses reduces their:

- job satisfaction
- self-esteem
- health and well being
- engagement levels
- retention rates
- ability to provide optimal levels of patient-centered care

The American Nurses Association (ANA, 2015) Position Statement on Incivility, Bullying and Workplace Violence has driven the charge among nurses to increase their awareness of the problem of violence in health care settings and to devise effective strategies on a system-level (2015, 2018). Since health care organizations respectively create their unique set of policies against employee violence, also referred to as “Zero-tolerance” or “Anti-Workplace Violence” policies, this continues to pose a challenge for researchers. In a recent ANA Workplace Violence webinar (2019, June 6) presenters, Fountain and Zankowski asked nurse participants to respond to the following two-part poll question “Does your organization have a workplace violence policy in place?” Reporting yes were 68.3% of nurses who had a workplace violence policy at work; 9.9% reported No policy, and 21.8% indicated that they were Unsure. Moreover, for the participants who reported Yes to having a violence policy in place, when asked if they

perceived it to be effective, 28.1% indicated Yes; while 42% indicated No; and 29.9% indicated that they were Unsure.

The ANA End Nurse Abuse Professional Panel (2019) recommends a system-level approach to prevent workplace violence using the three levels of prevention:

1. Primary prevention through education and prompt identification of the occurrence of workplace violence, such as a Zero-tolerance employee education program.
2. Secondary prevention by screening, ongoing surveillance, and treatment of employees of workplace violence incidents with swift interventions to mitigate the potential negative consequences; such as a reporting and a systematic improvement program.
3. Tertiary prevention to provide rehabilitative services and employee assistance to minimize the long term post-violence employee limitations; such as Employee Assistance Programs and After-care.

More research is needed to cultivate and sustain effective strategies to improve healthy work environments for all healthcare providers, particularly for nurses. Health care managers and staff should align to ensure daily efforts are made to prevent workplace violence through the use of realistic policies and ongoing monitoring of violent incidences and prompt remediation.

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Rachel Frija is a member of the NMNA Board of Directors and will be participating in the American Nurses Association Advocacy Institute to become a Fellow in 2020.

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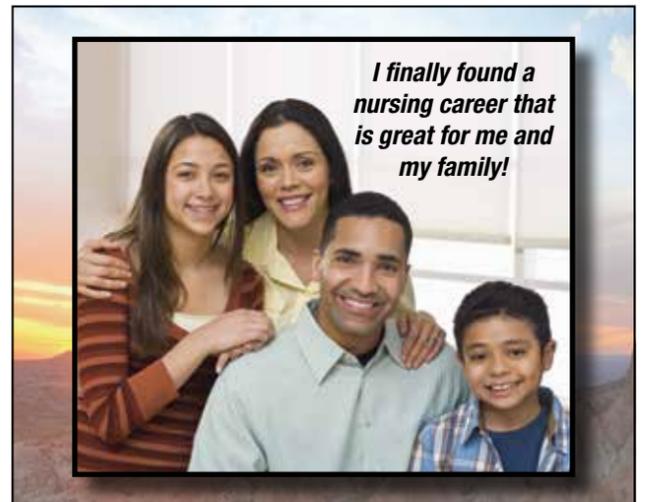
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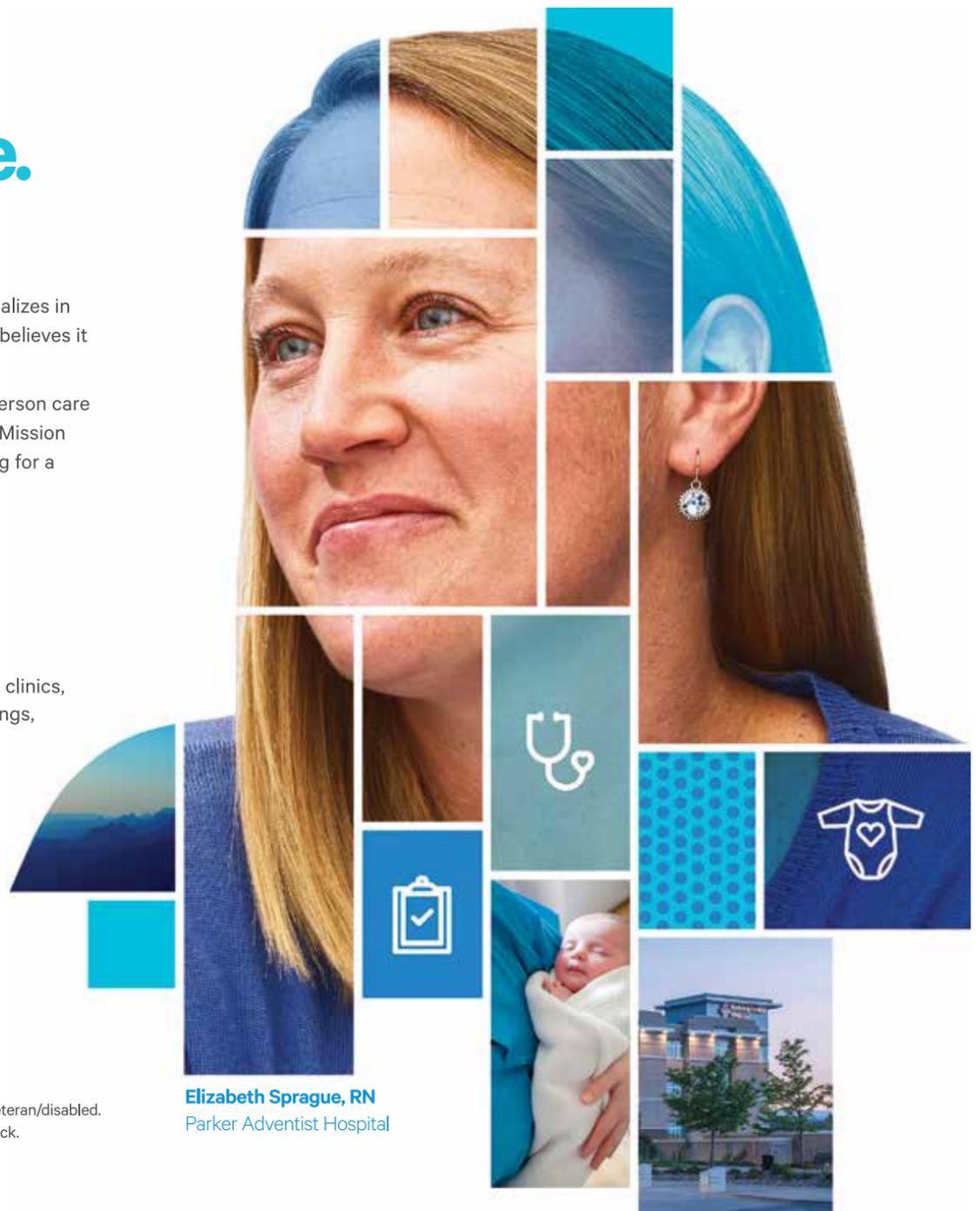
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