

## Adult Foster Home Provider Alert

Policy updates, rule clarifications and announcements

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**Date:** September 25, 2017

**Topic:** Oregon State Board of Nursing: Interpretive Statement

**To:** APD (Older Adults and Adults with Physical Disabilities)

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This provider alert is to clarify the limitations and responsibilities of a licensed practical nurse (LPN) and registered nurse (RN) in the home and community based settings, including the Adult Foster Home (AFH) setting. Its purpose is to ensure that they are participating within the legal boundaries of the Oregon State Board of Nursing (OSBN) and within the context of care for their practice setting.

Please read the attached Oregon Board of Nursing: Interpretive Statement for clarification on these roles and responsibilities in AFH settings.

# Oregon State Board of Nursing: Interpretive Statement

## Oregon State Board of Nursing and Oregon Department of Human Services Joint Statement on the Licensed Practical Nurse who Practices in Community Setting

### Statement of Purpose

The Purpose of this document is to:

- Summarize legal scope of practice boundaries of the licensed practical nurse in a DHS-licensed home and community based setting and in a DHS home-based client service/support program;
- Outline the responsibility of the registered nurse (RN) to provide clinical direction and supervision of licensed practical nurse (LPN) practice; and
- To discuss Nurse Practice Act (NPA) duty to report requirements.

### Background/Significance

It has come to the attention of the Oregon Department of Human Services (DHS) and Oregon State Board of Nursing (OSBN) that some LPNs have been practicing without RN clinical direction or supervision in DHS-licensed home and community based settings and in DHS home-based client service/support programs. Per 851-045-0050(1) and 851-045-0050(3) there is no independent practice role for the LPN in any role or setting. For the remainder of this interpretive statement, the term *client* will be used to identify the person who is the recipient of nursing services.

### OSBN Statement

Each individual LPN and RN is responsible for being knowledgeable of the statutes and rules governing nursing practice; practicing within those legal boundaries; and practicing within the context of care of their practice setting. *Context of care* is a defined term within Oregon's NPA and means the variables of the practice situation that guide a nurse's nursing service delivery. For the purposes of this interpretive statement, these variables include (but are not limited to) the laws and regulations governing the practice setting and/or the services provided therein; policies and procedures of the setting or the home-based client service/support program; the nurse's position description or provider enrollment agreement; professional and specialty nursing practice standards applicable to the nursing role, intervention, or activity; and the ability of the client to engage in their own care.

### DHS Statement

The RN and LPN who practice in a DHS-licensed home and community based setting, or who practice within a DHS home-based client service/support program, are legally accountable to adhere to Oregon's NPA and to practice within the context of care of the setting or program. As such, all LPN practice must be clinically directed and clinically supervised by an RN.

### OSBN and DHS Statement

Within DHS-licensed home and community based settings and within DHS home-based client service/support programs, there is no legal authority for the Oregon-licensed LPN to engage in nursing practice independent of RN clinical direction and supervision. LPN practice must always occur under the clinical direction and supervision of an RN. This means that the RN is accountable to complete a

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comprehensive assessment of the client. *Comprehensive assessment* is a defined term within Oregon's NPA and means "...the collection, in-depth analysis and synthesis of client data by the RN." The RN exercises nursing judgment in forming a clinical decision based on the comprehensive assessment which supports the RN's development of a plan of care. *Plan of care* is a defined term within Oregon's NPA and means "...the comprehensive outline authored by the RN that communicates the client's identified problems or risks, identifies measurable client outcomes, and identifies nursing interventions chosen to mitigate the identified problems or risks." The RN is accountable for implementation of the plan of care and for ensuring that all interventions or activities to be performed are supported by policies and procedure of the practice setting or program.

The RN holds the scope of practice authority to assign interventions within the plan of care to an LPN to perform. *Assign* is a defined term within Oregon's NPA and means "...directing and distributing, within a given work period, the work that each staff member is already authorized to perform." When the RN assigns interventions to the LPN, the RN is providing clinical direction of the LPN.

Based on work the LPN is authorized to perform in the setting, the RN may assign interventions that are within LPN scope of practice. The RN must ensure the individual LPN possesses the competencies necessary to safely perform the intervention. LPN scope of practice interventions may include:

- The performance of hands-on nursing procedures;
- Accepting and implementing orders for client care and treatment;
- Some teaching responsibilities, and
- The completion of focused assessments for problems/risks identified in the RN-authored plan of care. *Focused assessment* is a defined term within Oregon's NPA and means, for the purposes of this interpretive statement, "...the collection and appraisal of data related to the client's health status performed by the LPN that occurs as assigned to the LPN by the RN..."

The LPN may perform a focused assessment as assigned by the RN for an identified problem/risk on the established plan of care. In performance of the assigned focused assessment, the LPN is able to determine if the problem/risk deviates from the established plan of care. When the LPN's focused assessment determines that the problem/risk has not deviated from the client's established plan of care, the LPN continues to implement assigned interventions.

When the LPN determines a problem/risk has deviated from the client's established plan of care, or a problem arises that is not on the plan of care, the LPN must defer to the RN who is able to provide comprehensive assessment of the client and formulate a new plan of care. The LPN may also contact the client's primary care provider as directed in the plan of care. The LPN cannot independently formulate a new plan of care, even a focused plan of care, outside of the client's known problems/risks.

The RN and LPN remain accountable to advocate for a client's safe and appropriate care. Warning signs of a medical emergency always warrant immediate contact with emergency medical services (9-1-1).

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The RN who assigns interventions to an LPN is responsible for providing clinical supervision of the LPN. *Clinical supervision* is a defined term within Oregon's NPA and means, for the purposes of this interpretive statement, the RN's provision of guidance, direction, oversight and evaluation of the LPN in their implementation of the plan of care. The RN's provision of clinical supervision occurs through the RN's adherence to nursing practice standards as codified at 851-045-0060(3).

### **Protection of the Public**

The context of care in a DHS-licensed home and community based setting, and in a DHS home-based client service/support program, predominantly exists without collegial oversight or peer review processes. This necessitates due diligence on behalf of each individual licensed nurse – including the RN and LPN who provide private duty nursing services, and the RN who practices in an administrative, corporate, management, or consultant role. This means the aforementioned Oregon-licensed nurses are accountable for:

- Ensuring that nursing roles, interventions or activities performed in the setting or through the program are not prohibited by the NPA or prohibited by any other applicable law, rule, regulation, or accreditation standard.
- Ensuring nursing roles, interventions, and activities performed are consistent with professional and specialty nursing standards and with evidence-based nursing and health care literature.
- Ensuring nursing roles, interventions, and activities performed are supported by practice setting/program policies and procedures.
- Prior to engaging in any role, intervention or activity, ensuring the necessary education has been completed.
- Ensuring documented evidence of current competency to safely perform the role, intervention or activity.
- Addressing unsafe nursing practice immediately.
- Adhering to the 851-045-0090 duty to report standards and to State of Oregon mandatory reporting law outside of the NPA: ORS chapter 676.150, ORS chapter 419b.010, ORS chapter 124.050, and ORS chapter 146.750.

For the protection of the public, employers of nurses are responsible to report a nurse's dismissal from employment due to unsafe practice or for conduct derogatory to the standards of nursing [851-045-0090(6)(c)]. This includes State of Oregon administered programs that utilize nurses as independent providers of nursing services. Failure to report to the OSBN may result in civil penalties; refer to OAR 851-045-0100.

For additional information regarding Oregon's NPA requirements, visit the OSBN website at: [www.oregon.gov/osbn](http://www.oregon.gov/osbn).

### **References**

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*The Oregon State Board of Nursing (OSBN) is authorized by Oregon Revised Statutes Chapter 678 to exercise general supervision over the practice of nursing in Oregon to include regulation of nursing licensure, education, and practice in order to assure that the citizens of Oregon receive safe and effective care. The OSBN further interprets statute and rule and issues opinions in the form of Policy and Interpretive Statements. These policies and interpretive statements are advisory in nature and issued as guidelines for safe nursing practice.*