

Adult Foster Home Provider Alert

Policy updates, rule clarifications and announcements

Date: April 19th, 2022
To: APD Adult Foster Home Providers
From: Safety, Oversight and Quality Unit
Topic: **AFH Owner/ Operators Licensed as an LPN, CNA or CNA with CMA Certification**

This communication is going out to all Adult Foster Homes (AFH). Information provided is intended for AFH that are owned/operated by a licensed practical nurse (LPN), certified nursing assistant (CNA) or a CNA with a certified medication aid endorsement (CMA). This information also applies to any AFH that employs an LPN, CNA or CMA.

The documents attached outline the Oregon Board of Nursing (OSBN) limitations on when an LPN, CNA, or CNA with a CMA endorsement may count their hours worked in an AFH.

ODHS **does not** have any restrictions on LPNs or CNAs/CMAs owning an Adult Foster Home (AFH) or working in an AFH.

The attached documents were created as a courtesy to ensure that the LPN or CNA/CMA AFH owner or if employees of an AFH are aware of what work may be counted towards OSBNs required hours for license or certification renewal.

For additional questions about LPN practice or CNA/CMA authorized duties refer to the following OSBN resources:

- CNA Authorized Duties FAQs at www.oregon.gov/osbn/Pages/FAQs_CNA.aspx
- CMA Authorized Duties FAQs at www.oregon.gov/osbn/Pages/FAQs_CMA.aspx

- OSBN interactive scope-of-practice decision at - <https://osbn.oregon.gov/OSBNScopeTree/Default.aspx>
- Still unsure? Submit a Scope-of-Practice Question at - www.oregon.gov/osbn/Pages/scope-practice.aspx

If you have any questions about the content of the CBA, please contact APD.AFHteam@dhsoha.state.or.us

Thank You,

The Adult Foster Home Team

APD POLICY: AFH LPN Practice Fact Sheet

LPN Practice in Adult Foster Home Settings

This fact sheet outlines the requirements for the Licensed Practical Nurse (LPN) Adult Foster Home (AFH) owner and the LPN AFH staff when their nursing practice occurs in the AFH.

RN Clinical Direction and Supervision of LPN Practice

Oregon's Nurse Practice Act (NPA) only allows for a dependent and clinically directed scope of practice for the LPN. For LPN practice in the AFH, this means that the LPN's practice may only occur when an RN provides clinical direction and supervision of the LPN's practice with each resident.

The LPN's nursing practice occurs as the RN assigns nursing plan of care interventions to the LPN to provide nursing care. Refer to the OSBN and ODHS Joint Statement – *LPN Practice in ODHS licensed Settings and in Home-based Service/Support Program*.

LPN practice in the AFH requires the LPN to have a formal legal relationship with an RN who agrees to and will provide clinical direction and supervision of the LPN's nursing practice in accordance with Chapter 851 Division 045 of Oregon's NPA. ***Although the AFH Oregon Administrative Rules (OARs) require each AFH to have an RN Consultant, this does not mean the RN Consultant is prepared, willing, able, or required to provide clinical direction and supervision of the LPN's nursing practice in the AFH.***

Key Concepts

- Only the RN can conduct a comprehensive assessment of each resident and write the nursing plan of care for each resident residing in the AFH:
 - The LPN may collect data that is used by the RN for the comprehensive assessment, but the LPN cannot analyze the data to write the nursing plan of care.
 - The person who holds an LPN license may write the activities of daily living (ADL) portion of the AFH licensee's care plan however, the person may not sign their work as an LPN.
- The LPN **cannot** draft, author, or revise the nursing plan of care for any resident.
Note: The RN who "signs-off" on the LPN drafted, written or revised nursing plan of care is assisting that LPN to violate Chapter 851 Division 045 OARs on LPN scope of practice; an action demonstrating conduct derogatory to the practice of nursing;

- The RN can assign interventions in the care plan for the LPN to carry out (i.e., clinical direction) and to other caregivers as appropriate:
 - Once the RN has assigned nursing care plan interventions to the LPN, the LPN may then assign interventions to the CNA.
- The RN conducts ongoing comprehensive assessments and focused assessments for each resident including when their condition changes;
- The RN provides ongoing supervision and evaluation of the LPN's practice in the AFH;
- The RN must be available to the LPN for communication and consultation;
- The RN does not delegate the performance of nursing procedures to the LPN. When the RN's nursing care plan contains the performance of the nursing procedure, the LPN can perform the nursing procedure.

LPN Documentation

In addition to meeting AFH OAR documentation requirements, the LPN must meet the documentation standards set forth in Chapter 851 Division 045 of the NPA. Following only the AFH OARs for documentation **will not** meet the NPA standards. The LPN must generate documentation that demonstrates LPN practice in accordance with the laws and rules of the NPA and the needs of the resident.

Limitation on Counting LPN Practice Hours:

When there is no clinical direction and supervision of LPN practice by an RN, **there is no legal authority for the LPN to practice nursing**. This means that hours worked by the person holding LPN licensure do not count as nursing practice hours required to renew an LPN license with the Oregon Board of Nursing (OSBN). Additionally, the LPN who advertises and provides nursing services in the AFH without RN clinical direction and supervision would be performing acts beyond their authorized scope of practice which is reportable to the OSBN. The LPN must disclose license type and practice role to the resident, family, and/or their representative. That means, when the LPN does not have clinical direction and supervision by an RN, they cannot represent themselves as providing nursing or LPN services.

Additional Information

For information regarding LPN practice, refer to the OSBN website:

- Division 851-045 LPN Scope of Practice:
<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=216344>
- OSBN and ODHS Joint Statement – *LPN Practice in ODHS licensed Settings and in Home-based Service/Support Program* can be found on the OSBN website:
www.oregon.gov/osbn/Documents/IS_LP_N_CommunitySetting.pdf
- OSBN Sentinel Newsletter - www.oregon.gov/osbn/Pages/publications.aspx
 - Clarifying the LPNs Role_Sentinel_Vol 35 No 4 November 2016
 - Demystifying the LPN Role_Sentinel_Vol 28 No 2 June 2009
 - Nursing Practice With CNA Team Member_Sentinel_Vol 40 No 1_February 2021
 - Practice of Nursing A Brief Refresher_Sentinel_Vol 39 No 3_August 2020
 - Efficient and Effective Documentation_Sentinel_Vol 40 No 3_August 2021
 - Lifelong Learning Who Needs It_Sentinel_Vol 39 No 2 May 2019
- Questions about LPN Practice? Utilize OSBN's:
 - OSBN interactive scope-of-practice decision at -
<https://osbn.oregon.gov/OSBNScopeTree/Default.aspx>
 - Still unsure? Submit a Scope-of-Practice Question at -
www.oregon.gov/osbn/Pages/scope-practice.aspx

APD POLICY: AFH CNA/CMA FACT SHEET

Certified Nursing Assistant Fact Sheet

This document applies to the certified nursing assistant working in community-based settings. Community-based settings are facilities licensed by Oregon Department of Human Services (ODHS) **and** in-home settings when an ODHS client receives Home-based Services or is enrolled in a ODHS Support Program.

Purpose

- Describe the dependent role of the Certified Nursing Assistant and certified medication aide set forth in Oregon's Nurse Practice Act (NPA).
 - Certified nursing assistant and the acronym CNA is generic and may refer to a CNA 1, a CNA 2, or all CNAs.
 - A Certified Medication Aide is a CNA that has successfully completed additional training in the administration of non-injectable medications and holds an active CMA certification. You cannot have CMA certification without having a valid CNA certification.
 - 851-063-0030 (4) Under no circumstance shall a CNA work independently without supervision or monitoring by a licensed nurse who provides assessment of clients as described in OAR 851-063-0030(3)(a)(b).
- Outline the responsibilities of the registered nurse (RN) when assigning the CNA/CMA authorized duties and providing the monitored supervision of the CNA/CMA performance.
- Identify what hours the CNA/CMA can count towards renewal of their CNA/CMA certification.

The Certified Nursing Assistant

The Oregon State Board of Nursing (OSBN) sets the legal requirements for nursing assistant education, competency validation, certification, and renewal of a CNA certificate. For renewal of a CNA certificate, only the hours accrued performing CNA authorized duties under the monitored supervision of an RN who works for the same employer as the CNA may be counted.

RN Monitored Supervision of the CNA's Performance of Authorized Duties

Monitored supervision means that an RN assesses and writes the plan of care for a client, assigns authorized duties to the CNA according to the plan of care, and evaluates client outcomes as an indicator of CNA competency.

When the RN has an LPN on their health care team, the RN may assign to the LPN components of monitored supervision of the CNA's performance of authorized duties. When this occurs, the LPN may assign duties from the RN's plan of care to the CNA to perform.

There must be a formal legal relationship with the RN who will provide monitored supervision of the CNA either through employment with the same employer or through a contractual agreement. That means the RN is prepared, willing, able, or required to provide monitored supervision of the CNA. When there is no RN monitored supervision of the CNA, hours worked by the CNA **do not** count towards renewal of CNA certification.

RN Assessment, Plan of Care, and the CNA

The RN must assess each resident and write the resident's plan of care before assigning any authorized duties to the CNA.

The RN cannot direct the CNA to engage in duties that are not identified in OAR 851-045-0063. It is the responsibility of both the RN and the CNA/CMA to be knowledgeable of duties authorized for their type of certification.

Facility administrators, supervisors, Adult Foster Home (AFH) owners or other staff cannot write the RN's plan of care and have the RN sign-off on the plan. This is prohibited by Oregon's NPA.

Medication Administration

Rules for community-based settings allow for any staff who is properly trained to administer medications to residents. However, only the CMA, under the monitored supervision of the RN, may count hours accrued administering a resident's medications towards certification renewal.

The CNA without a CMA endorsement who administers medications cannot count the hours for certification renewal. This does not prohibit the CNA from administering medications but prohibits the CNA (without CMA certification) from counting these hours for certification renewal.

RN Delegation of a Nursing Procedure

The person working in a community-based setting, and who holds CNA certification is considered an unregulated assistive person (UAP) to the RN who delegates. As such, the RN may decide to authorize the person holding CNA certification (i.e., a UAP) to perform a nursing procedure that exceeds the OAR 851-063 authorized duties list. However, hours spent performing the nursing procedure do not count towards CNA certificate renewal.

Additional Information

For information regarding CNA 1, CNA 2, and CMA authorized duties and standards of care refer to the OSBN website:

OARs 851-063-0030; 0035, and 0070 - <https://www.oregon.gov/osbn/Pages/laws-rules.aspx>

OSBN Sentinel Newsletter - www.oregon.gov/osbn/Pages/publications.aspx

- Nursing Practice with CNA Team Member: Sentinel Vol 40 No 1 February 2021
- Lifelong Learning Who Needs It: Sentinel Vol 39 No 2 May 2019

Questions about CNAs Standards and Authorized Duties? Utilize OSBN's:

- CNA Authorized Duties FAQs at www.oregon.gov/osbn/Pages/FAQs_CNA.aspx
- CMA Authorized Duties FAQs at www.oregon.gov/osbn/Pages/FAQs_CMA.aspx
- Submit a Practice Question at - www.oregon.gov/osbn/Pages/scope-practice.aspx