

Massachusetts Board of Registration in Nursing
Advisory Ruling on Nursing Practice

Title: Invokement of Health Care Proxy by Advanced Practice Registered Nurses

Advisory Ruling Number: 24-02

Authority: The Massachusetts Board of Registration in Nursing (Board) is created and authorized by Massachusetts General Laws (M.G.L.) c. 13, §§ 13, 14, 14A, 15 and 15D, and G.L. c. 112, §§ 74 through 81C to protect the health, safety, and welfare of the citizens of the Commonwealth through the regulation of nursing practice and education. In addition, M.G.L. c. 30A, § 8 authorizes the Board to make advisory rulings with respect to the applicability to any person, property, or state of facts of any statute or regulation enforced or administered by the Board. Each nurse is required to practice in accordance with accepted standards of practice and is responsible and accountable for his or her nursing judgments, actions, and competency. The Board's regulation at 244 CMR 9.03(6) requires all nurses to comply with any other law and regulation related to licensure and practice.

Date Issued: November 13, 2024

Date Revised:

Scope of Practice: Certified Nurse Practitioners (CNP), Psychiatric Nurse Mental Health Clinical Specialists (PCNS)

Purpose: To guide the practice of CNPs and PCNSs when required to invoke a health care proxy.

Advisory: CNPs and PCNSs authorized to practice by the Board will engage in the advanced practice of nursing in accordance with accepted professional standards. The nurse must acquire and maintain necessary knowledge, skills, and abilities before assuming duties and responsibilities for performing procedures associated with invokement of health care proxies.

Although the statute pertaining to health care proxies (MGL Chapter 201D, § 6¹) states it is the role of "attending physicians" to invoke health proxies, it is the Board's position that CNPs and PCNSs, who have attained the required knowledge and competencies, may also invoke health care proxies, in compliance with MGL 112 § 80B, § 80I and 244 CMR 4.06 (3)(c).

Definitions:

APRN Practice: means professional nursing activities including, but not limited to: advanced assessment, diagnosis, treatment, referrals, consultations, and other modalities for individuals, groups or communities across the life span for health

¹ Massachusetts General Law Chapter 201D, § 6 Accessed at <https://malegislature.gov/Laws/GeneralLaws/PartII/TitleII/Chapter201D>

promotion or health maintenance and for those who are experiencing acute or chronic disease, illness, trauma or other life-altering event in which rehabilitative, and/or palliative interventions are necessary, to the extent that those activities lie within the APRN's authorized clinical category, scope of practice competencies, and accepted standards of Advanced Nursing practice².

Massachusetts General Law (MGL) Chapter 112 § 80B³ states:

“The standards of care to which nurses in advanced practice shall be held, shall be those standards which protect consumers, and provide them with safe and comprehensive care, and shall be standards comparable to other professionals, including physicians, providing the same services.”

MGL c. 112 § 80I⁴ further states:

“When a law or rule requires a signature, certification, stamp, verification, affidavit or endorsement by a physician, when relating to physical or mental health, that requirement may be fulfilled by a nurse practitioner or psychiatric nurse mental health clinical specialist practicing under section 80B”.

244 CMR 4.06 (3)(c)⁵ states:

“Pursuant to M.G.L. c. 112, § 80I, when a law or rule requires a signature, certification, stamp, verification, affidavit or endorsement by a physician, when relating to physical or mental health, that requirement may be fulfilled by a CNP, provided that the signature, certification, stamp, verification, affidavit, or endorsement is consistent with established scope of practice standards and does not expand the scope of practice of the CNP”.

² Massachusetts Board of Registration in Nursing. Definitions and Severability. 244 CMR 10.00. Accessed at <https://www.mass.gov/doc/244-cmr-1000-definitions-and-severability/download>

³ Massachusetts General Law (MGL) Chapter 112 § 80B. Accessed at <https://malegislature.gov/laws/generallaws/parti/titlexvi/chapter112/section80b>

⁴ Massachusetts General Law (MGL) Chapter 112 § 80I. Accessed at <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter112/Section80I>

⁵ Massachusetts Board of Registration in Nursing. Advanced Practice Registered Nurses. 244 CMR 4.06 (3)(c). Accessed at <https://www.mass.gov/doc/244-cmr-4-advanced-practice-registered-nursing/download>