

244 CMR: BOARD OF REGISTRATION IN NURSING

244 CMR 9.00: STANDARDS OF CONDUCT

Section

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9.04: Standards of Conduct for Advanced Practice Nurses (APNs)

9.01: Purpose

244 CMR 9.00 defines the standards of conduct for all nurses licensed by the Board of Registration in Nursing.

9.02: Definitions

Abandon means to intentionally terminate any nurse/patient relationship without reasonable notice to the patient or appropriate other person(s), or both, so that arrangements can be made for necessary continuation of care.

Abuse means any impermissible or unjustifiable contact or communication with a patient which in any way harms or intimidates, or is likely to harm or intimidate, a patient. Abuse may be verbal or non-verbal, and may cause physical, sexual, mental, or emotional harm.

Address of Record means the address of a nurse licensed by the Board as provided by the nurse and maintained by the Board on its license database.

Advanced Practice Nurse (APN) means a Registered Nurse to whom the Board has granted written authorization, under authority of M.G.L. c. 112, § 80B, to engage in advanced practice nursing as defined in 244 CMR 4.00.

Advanced Practice Nursing means professional nursing activity engaged in by a Registered Nurse in accordance with 244 CMR 4.00.

APN Authorization means the written authorization granted by the Board to a Registered Nurse in accordance with 244 CMR 4.00 to engage in advanced practice nursing.

Agreement means a legally binding document reflecting the agreement, including specified terms and conditions, entered into by a nurse licensed by the Board and the Board in resolution of any complaint against such nurse.

Authorized Prescriber means a person who holds current and valid controlled substances registrations issued by the United States Drug Enforcement Administration and the Division of Food and Drugs of the Massachusetts Department of Public Health.

Board means the Massachusetts Board of Registration in Nursing.

CMR means the Code of Massachusetts Regulations published by the Regulations Division of the Massachusetts Office of the Secretary of State.

Competency means the application of knowledge and the use of affective, cognitive, and psychomotor skills required for the role of a nurse licensed by the Board and for the delivery of safe nursing care in accordance with accepted standards of practice.

Complaint means a communication to, or other information obtained by, the Board alleging that a nurse licensed by the Board has engaged in conduct related to the practice of nursing that violates any laws or regulations, or both, related to such practice.

Controlled Substance means a drug, substance, or immediate precursor in any schedule or class referred to in M.G.L. c. 94C. Any drug or medication requiring a prescription in Massachusetts is a controlled substance.

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Drug means a substance recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and all revisions and supplements thereto.

Impaired means the inability to practice nursing with reasonable judgment, skill, and safety by reason of alcohol or drug abuse, use of other substances, a physical or mental illness or condition, or by any combination of the foregoing.

Licensed Practical Nurse (LPN) means a nurse who meets the criteria for licensure under M.G.L. c. 112, § 74A and 244 CMR 8.00, and who holds a valid license to engage in the practice of nursing as a Licensed Practical Nurse.

M.G.L. means Massachusetts General Laws.

Mistreatment means the improper use of any drug, physical or chemical restraint or confinement, or any combination thereof.

Neglect means the unjustified failure to provide treatment or services, or both, necessary to maintain the health or safety, or both, of a patient.

Nurse Licensed by the Board means a nurse to whom the Board has at any time issued a Registered Nurse or Licensed Practical Nurse license, or both, whether or not such license is expired, surrendered, suspended, or revoked.

Practice of Nursing means the practice of nursing as defined in M.G.L. c. 112, § 80B and 244 CMR 3.00. The practice of nursing includes, but is not limited to, the provision of a nursing service by a nurse physically located *outside* Massachusetts to a person physically located *within* Massachusetts using telecommunications technology, seeking or accepting any paid or voluntary position as a Registered Nurse or Licensed Practical Nurse or any paid or voluntary position requiring that the applicant hold a valid license to practice nursing.

Prescription Drug means any and all drugs determined to be prescription drugs under M.G.L. c. 94C.

Prescriptive Practice means the written and oral issuance of any prescription and medication order for prescription and non-prescription drugs.

Professional Boundaries mean the limits of the professional relationship that allow for a safe and therapeutic interface between the professional and the patient.

Registered Nurse (RN) means a nurse who meets the criteria for licensure under M.G.L. c. 112, § 74 and 244 CMR 8.00, and who holds a valid license to engage in the practice of nursing in Massachusetts as a Registered Nurse.

Standards of Nursing Practice means authoritative statements that describe a level of care or performance common to the profession of nursing by which the quality of nursing practice can be judged.

Substance Abuse means a dysfunctional pattern of human response characterized by excessive, inappropriate, or unhealthy use of chemical substances including alcohol or drugs, or both.

Telecommunications Technology means those modalities used in the practice of nursing over distance, whether intrastate or interstate. Such modalities include, but are not limited to: telephones, facsimile, cellular phones, video phones, computers, e-mail, voice mail, CD-ROM, electronic bulletin boards, audio tapes, audio-visual tapes, teleconferencing, video conferencing, on-line services, World Wide Web, Internet, interactive television, real-time camera, and still-imaging.

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Unlicensed Practice of Nursing means engaging, or attempting to engage, in the practice of nursing in Massachusetts without holding a valid license. Unlicensed practice of nursing also means using any title or other designation indicating licensure as a Registered Nurse or Licensed Practical Nurse, or authorization to engage in advanced practice nursing, without the requisite valid license or APN authorization.

Valid License means a license to practice nursing in Massachusetts properly issued to a nurse by the Board on the basis of truthful information related to the qualifications for licensure as a Registered Nurse or Licensed Practical Nurse, and which license is not expired, surrendered, suspended, or revoked.

9.03: Standards of Conduct for Nurses

Each nurse licensed by the Board and engaged in the practice of nursing shall have knowledge and understanding of the Standards of Conduct for Nurses set forth in 244 CMR 9.00, all state laws and Board regulations governing the practice of nursing, and all other state and federal laws and regulations related to such practice.

The Board may take disciplinary action against the license of any nurse licensed by the Board or against any APN authorization, or both, or against the nurse's right to renew such license, upon the nurse's failure to comply with the Standards of Conduct for Nurses or with any other laws and regulations related to the practice of nursing.

(1) Practice Under Valid License. Except as provided by M.G.L. c. 112, §§ 80, 80A, and 81, a nurse shall only engage in the practice of nursing in Massachusetts with a valid license.

(2) Practice as Advanced Practice Nurse (APN). A Registered Nurse may only engage in advanced practice nursing in Massachusetts after receiving written authorization from the Board in accordance with 244 CMR 4.00.

(3) Practice Following Loss of License. A nurse licensed by the Board shall not engage in the practice of nursing in Massachusetts, or in any way represent himself or herself as a Registered Nurse or Licensed Practical Nurse, after the effective date of:

- (a) license expiration;
- (b) license surrender under the terms and conditions of a written agreement entered into with the Board;
- (c) a license suspension order or license revocation order contained in a final decision and order issued by the Board;
- (d) a summary suspension order issued by the Board in accordance with 244 CMR 7.05.

The practice of nursing in Massachusetts after the occurrence of any of the events set forth in 244 CMR 9.03(3)(a) through (d) shall constitute the unlicensed practice of nursing.

(4) Practice of Nursing in Another Jurisdiction Using Telecommunications Technology. A nurse licensed by the Board who, while physically located *within* Massachusetts, provides a nursing service using telecommunications technology to a person physically located *outside* Massachusetts, shall also be governed by the licensure and practice laws and regulations of the state or jurisdiction in which the recipient of such a service is located.

(5) Adherence to Standards of Nursing Practice. A nurse licensed by the Board shall engage in the practice of nursing in accordance with accepted standards of practice.

(6) Compliance with Laws and Regulations Related to Nursing.

(a) A nurse who holds a valid license shall comply with M.G.L. c. 112, §§ 74 through 81C, as well as with any other laws and regulations related to licensure and practice. Examples of such laws include, but are not limited to, the following:

- 1. M.G.L. c. 19A, § 15 (obligation to report elder abuse);
- 2. M.G.L. c. 19C, § 10 (obligation to report abuse of disabled person);
- 3. M.G.L. c. 38, § 3 (report of death to medical examiner);
- 4. M.G.L. c. 46, § 9 (death pronouncement);
- 5. M.G.L. c. 62C, § 47A(d) (obligation to pay state taxes);
- 6. M.G.L. c. 71, § 55A (obligation to sick school child);

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7. M.G.L. c. 71, § 55B (obligation to file report certifying freedom from tuberculosis in communicable form);
 8. M.G.L. 94C (Controlled Substances Act - requirements for possessing, dispensing, administering, and prescribing controlled substances);
 9. M.G.L. c. 111, § 70E (Patients' or Residents' Rights);
 10. M.G.L. c. 111, § 70F (HTLV-III Tests);
 11. M.G.L. c. 111, § 72G (obligation to report abuse of patient or resident);
 12. M.G.L. c. 111, § 110 (obligation to report infant with swollen, red, or inflamed eye(s) or with unnatural discharge within two weeks after birth);
 13. M.G.L. c. 111, § 110B (obligation to report examination or treatment of child with Reyes syndrome);
 14. M.G.L. c. 111, § 191 (obligation to report lead poisoning);
 15. M.G.L. c. 112, § 12CC (obligation to provide patient records);
 16. M.G.L. c. 112, § 61 (obligation to pay student loans);
 17. M.G.L. c. 119, § 51A (obligation to report child abuse);
 18. M.G.L. c. 119A, § 16 (obligation to pay child support);
 19. M.G.L. c. 123, § 12 (requirements for commitment of mentally ill person);
 20. M.G.L. c. 123, § 21 (requirements for use of restraint and seclusion of mentally ill person); and
 21. M.G.L. c. 123B, § 8 (requirements for use of restraint and seclusion of mentally retarded person).
- (b) A nurse licensed by the Board who no longer holds a valid license shall comply with 244 CMR 9.03(6)(a)5., 16., and 18., as well as with the good moral character requirement contained in M.G.L. c. 112, § 74 (RNs) and § 74A (LPNs).
- (7) Aiding Unlawful Activity. A nurse licensed by the Board shall not aid any person in performing any act prohibited by law or regulation.
- (8) Identification Badge. A nurse who holds a valid license and who examines, observes, or treats a patient in any practice setting shall wear an identification badge which visibly discloses at a minimum his or her first name, licensure status and, if applicable, advanced practice authorization.
- (9) Responsibility and Accountability. A nurse licensed by the Board shall be responsible and accountable for his or her nursing judgments, actions, and competency.
- (10) Acts within Scope of Practice. A nurse who holds a valid license and is engaged in the practice of nursing in Massachusetts shall only perform acts within the scope of nursing practice as defined in M.G.L. c. 112, § 80B and 244 CMR 3.00.
- (11) Performance of Techniques and Procedures. A nurse licensed by the Board shall perform nursing techniques and procedures only after appropriate education and demonstrated clinical competency.
- (12) Competency. A nurse who holds a valid license shall only assume those duties and responsibilities within his or her scope of practice and for which he or she has acquired and maintained necessary knowledge, skills, and abilities.
- (13) Discrimination. A nurse licensed by the Board shall not withhold or deny nursing care based on age, ancestry, marital status, sex, sexual orientation, race, color, religious creed, national origin, diagnosis, or mental or physical disability.
- (14) Asepsis and Infection Control. A nurse licensed by the Board shall adhere to standard precautions and to principles of asepsis and infection control, and shall not place a patient, himself or herself, or others at risk for the transmission of infectious diseases.

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(15) Patient Abuse, Neglect, Mistreatment, Abandonment, or Other Harm. A nurse licensed by the Board shall not abuse, neglect, mistreat, abandon, or otherwise harm a patient.

(16) Patient Confidential Information. A nurse licensed by the Board shall safeguard patient information from any person or entity, or both, not entitled to such information. A nurse licensed by the Board shall share appropriate information only as required by law or for the protection of the patient.

(17) Patient Dignity and Privacy. A nurse licensed by the Board shall safeguard a patient's dignity and right to privacy.

(18) Participation in Research. A nurse licensed by the Board who enrolls subjects in a research study or conducts such a study, or both, shall verify that a board, committee, or other group designated by an institution to ensure the protection of human subjects has approved the study in accordance with accepted standards for the protection of human subjects.

(19) Exercise of Undue Influence. A nurse licensed by the Board shall not exercise undue influence on a patient, including the promotion or sale of services, goods, appliances or drugs, in such a manner as to exploit the patient for financial gain of the nurse or a third party.

(20) Borrowing from Patients. A nurse licensed by the Board shall not borrow money, materials, or other property from any patient.

(21) Undue Benefit or Gain. A nurse licensed by the Board shall care for, and refer, a patient without undue benefit or gain to the nurse or a third party.

(22) Advertising. A nurse licensed by the Board shall not engage in false, deceptive, or misleading advertising related to the practice of nursing.

(23) Sexual Contact. A nurse licensed by the Board shall not have sexual contact with any patient with whom he or she has a nurse/patient relationship or with any former patient who may be vulnerable by virtue of emotional status, age, illness, or cognitive ability.

(24) Professional Boundaries. A nurse licensed by the Board shall establish and observe professional boundaries with respect to any patient with whom he or she has a nurse/patient relationship. A licensed nurse shall continue to observe professional boundaries with his or her former patients who may be vulnerable by virtue of emotional status, age, illness, or cognitive ability.

(25) Relationship Affecting Professional Judgment. A nurse licensed by the Board shall not initiate or maintain a nurse/patient relationship that is likely to adversely affect the nurse's professional judgment.

(26) Duty to Report to the Board. A nurse who holds a valid license and who directly observes another nurse engaged in any of the following shall report that nurse to the Board in accordance with Board guidelines:

- (a) abuse of a patient;
- (b) practice of nursing while impaired by substance abuse;
- (c) diversion of controlled substances.

(27) Change of Personal Data. A nurse who holds a valid license shall inform the Board in writing within 30 days of any change of his or her name, address of record, or Social Security number.

(28) Action Against Certificate. A nurse who holds a valid license and who holds a certificate issued by a certifying body related to the practice of nursing shall report to the Board in writing within 30 days any action against, or surrender of, his or her certificate issued by such certifying body.

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- (29) Examinations. In connection with any examination related to the practice of nursing, an applicant to the Board for licensure or a nurse licensed by the Board shall not:
- (a) impersonate or act as proxy for an applicant for nurse licensure, APN authorization, or certification;
 - (b) disclose the contents of any examination, or solicit, accept, or compile information regarding the contents of any such examination before, during, or after its administration, or in any other way compromise or attempt to compromise the integrity of any such examination; or
 - (c) in any other way cheat on any examination.
- (30) Practice Under a False or Different Name. A nurse who holds a valid license shall engage in the practice of nursing only under the name in which such license has been issued.
- (31) Falsification of Information. A nurse licensed by the Board shall not knowingly falsify, or attempt to falsify, any documentation or information related to any aspect of licensure as a nurse, the practice of nursing, and the delivery of nursing services.
- (32) Fraudulent Practices. A nurse licensed by the Board shall not engage in any fraudulent practice including, but not limited to, billing for services not rendered or submitting false claims for reimbursement.
- (33) Impersonation. A nurse licensed by the Board shall not impersonate another nurse or other health care provider, or knowingly allow or enable another person to impersonate him or her.
- (34) Misrepresentation of Credentials. A nurse licensed by the Board shall not misrepresent his or her credentials related to the practice of nursing including, but not limited to, those indicating education, type of nurse licensure, APN authorization, or certification related to the practice of nursing.
- (35) Security of Controlled Substances. A nurse licensed by the Board and engaged in the practice of nursing shall maintain the security of controlled substances that are under his or her responsibility and control.
- (36) Practice While Impaired. A nurse licensed by the Board shall not practice nursing while impaired.
- (37) Unlawful Acquisition and Possession of Controlled Substances. A nurse licensed by the Board shall not unlawfully obtain or possess controlled substances.
- (38) Administration of Drugs. A nurse licensed by the Board shall not administer any prescription drug or non-prescription drug to any person in the course of nursing practice except as directed by an authorized prescriber. 244 CMR 9.03(38) shall not apply where a Registered Nurse authorized by the Board to practice as a nurse anesthetist administers anesthesia or peri-operative medications, or both, under guidelines required by 244 CMR 4.25(4).
- (39) Documentation of Controlled Substances. A nurse licensed by the Board shall document the handling, administration, and destruction of controlled substances in accordance with all federal and state laws and regulations and in a manner consistent with accepted standards of nursing practice.
- (40) Circumvention of Law. A nurse licensed by the Board shall not receive from, or offer, give, or promise anything of value or benefit to, any official to circumvent any federal and state laws and regulations related to the practice of nursing.
- (41) Compliance with Board Order. A nurse licensed by the Board shall comply with any order for disciplinary action issued by the Board against his or her license to engage in the practice of nursing or right to renew such license except as otherwise may be determined by the appropriate court in the course of an appeal of a Board final decision and order.

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- (42) Compliance with Agreements. A nurse licensed by the Board shall comply with all provisions contained in any agreement he or she has entered into with the Board.
- (43) Violence. A nurse licensed by the Board shall not endanger the safety of the public, patients, or coworkers by making actual or implied threats of violence, or carrying out an act of violence.
- (44) Documentation. A nurse licensed by the Board shall make complete, accurate, and legible entries in all records required by federal and state laws and regulations and accepted standards of nursing practice. On all documentation requiring a nurse's signature, the nurse shall sign his or her name as it appears on his or her license.
- (45) Alteration or Destruction of Records. A nurse licensed by the Board shall not inappropriately destroy or alter any record related to the practice of nursing.
- (46) Responsibilities of Nurse in Management Role. A nurse licensed by the Board and employed in a nursing management role shall adhere to accepted standards of practice for that role. The responsibilities of the nurse employed in a nursing management role are to develop and implement the necessary measures to promote and manage the delivery of safe nursing care in accordance with accepted standards of nursing practice.
- (47) Other Prohibited Conduct. A nurse licensed by the Board shall not engage in any other conduct that fails to conform to accepted standards of nursing practice or in any behavior that is likely to have an adverse effect upon the health, safety, or welfare of the public.

9.04: Standards of Conduct for Advanced Practice Nurses (APNs)

In addition to the Standards of Conduct set forth in 244 CMR 9.03(1) through (47), the standards set forth in 244 CMR 9.04(1) through (6) shall govern all nurses granted APN authorization by the Board.

An APN's failure to comply with the Standards of Conduct for Advanced Practice Nurses may serve as the basis for disciplinary action against the APN's authorization in accordance with M.G.L. c. 112, §§ 61 and 74. Such failure may also serve as the basis for disciplinary action against the APN's Registered Nurse license.

- (1) Preparation and Competency. An APN shall practice only in the category of advanced practice nursing for which the Board has authorized him or her. The APN's clinical practice shall include only those areas of practice for which the APN has formal, advanced nursing education and documented competency. Such formal, advanced nursing education shall meet the criteria for continuing education in nursing as specified in 244 CMR 4.00.
- (2) Practice Following Loss of Authorization. An APN shall not engage in advanced practice nursing, or in any way represent that he or she is authorized to engage in such practice, after the effective date of the surrender, suspension, or revocation of such authorization by the Board, or after the voluntary relinquishment of such authorization to the Board.
- (3) Controlled Substance Registrations. An APN who is an authorized prescriber shall:
- (a) comply with 244 CMR 4.00 governing prescriptive practice by an APN and with all federal and state laws and regulations governing prescriptive practice and the handling of controlled substances; and
 - (b) notify the Board in writing of any surrender, suspension, revocation, or other action affecting the APN's federal or state controlled substances registrations, or both, within 30 days of such action. In the case of the surrender, suspension, or revocation of either registration, or both, the APN shall immediately cease all prescriptive practice.
- (4) Advanced Practice Certification. In order to maintain APN authorization and to engage in advanced practice nursing, an APN shall hold current professional advanced practice certification and shall submit documentation satisfactory to the Board of current certification with each application for Registered Nurse license renewal.

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(5) Full Disclosure. When proposing any diagnostic or therapeutic intervention which is beyond the scope of generic nursing practice, an APN shall fully disclose to the patient or to the patient's representative the risks and benefits of, and alternatives to, such intervention and shall document such disclosure in the patient's record.

(6) Notice of Charges for Services. An APN engaged in independent billing for his or her services shall provide access to information regarding charges and methods of payment for services when requested by a patient or the patient's representative.

REGULATORY AUTHORITY

244 CMR 9.00: M.G.L. c. 13, § 14; c. 112, §§ 61, 74, 74A, 79, 80, 80A, 80B and 80F.