

**PROPOSED REGULATION OF  
THE STATE BOARD OF NURSING**

**LCB File No. R105-14**

July 31, 2014

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1 and 3, NRS 632.120 and 632.237; §2, NRS 632.120 and 632.320

A REGULATION relating to nursing; requiring an advanced practice registered nurse who is authorized to issue written prescriptions for controlled substances, poisons, dangerous drugs and devices to obtain access to the database of the computerized program established by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety to track certain prescriptions; requiring such an advanced practice registered nurse, before issuing a prescription for certain controlled substances, to obtain a patient report from the computerized program and review that report to determine if the prescription is medically necessary; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law allows an advanced practice registered nurse to prescribe certain controlled substances, poisons, dangerous drugs and devices if the advanced practice registered nurse is authorized to do so by the State Board of Nursing and obtains a certificate of registration from the State Board of Pharmacy. (NRS 453.126, 453.375, 632.237, 639.2351) Existing law also requires the State Board of Pharmacy and the Investigation Division of the Department of Public Safety to establish a computerized program to track each prescription for a controlled substance listed in schedule II, III and IV which is filled by a pharmacy that is registered with the State Board of Pharmacy or which is dispensed by a practitioner who is registered with the Board. (NRS 453.1545)

**Section 1** of this regulation requires an advanced practice registered nurse who is authorized to prescribe certain controlled substances, poisons, dangerous drugs and devices, before issuing certain prescriptions, to: (1) obtain access to the database of the computerized program for tracking prescriptions for controlled substances; (2) obtain from the computerized program a patient utilization report regarding the patient for whom the prescription is to be written; and (3) review the report to assess whether the prescription is medically necessary.

**Section 3** of this regulation requires an advanced practice registered nurse who is authorized to prescribe controlled substances, poisons, dangerous drugs and devices to include in his or her portfolio proof that he or she has obtained access to the database for tracking prescriptions for controlled substances, and **section 2** of this regulation adds failure to follow the

requirements for accessing the database, obtaining a patient utilization report and reviewing the report to assess if the prescription is medically necessary to the list of acts by an advanced practice registered nurse that are considered as unprofessional conduct.

**Section 1.** NAC 632.259 is hereby amended to read as follows:

632.259 *1.* An advanced practice registered nurse may only prescribe controlled substances, poisons, dangerous drugs or devices which are currently within the standard of practice in his or her identified role or population of focus.

*2. An advanced practice registered nurse who is authorized to issue written prescriptions for controlled substances, poisons, dangerous drugs and devices must successfully complete the course of training required pursuant to subsection 7 of NRS 453.1545 and obtain access to the database of the computerized program established pursuant to NRS 453.1545.*

*3. In addition to the requirements of NRS 639.23507, an advanced practice registered nurse who is authorized to issue written prescriptions for controlled substances, poisons, dangerous drugs and devices shall, before writing a prescription for a controlled substance listed in schedule II, III or IV for a patient:*

*(a) Obtain a patient utilization report regarding the patient for the preceding 12 months from the database of the computerized program established pursuant to NRS 453.1545; and*

*(b) Review the patient utilization report to assess whether the prescription for the controlled substance is medically necessary.*

**Sec. 2.** NAC 632.890 is hereby amended to read as follows:

632.890 The Board will consider the following acts, among others, by a licensee or holder of a certificate as unprofessional conduct:

1. Discriminating on the basis of race, religious creed, color, national origin, age, disability, ancestry, sexual orientation or sex in the rendering of nursing services.

2. Performing acts beyond the scope of the practice of nursing.
3. Assuming duties and responsibilities within the practice of nursing without adequate training.
4. Assuming duties and responsibilities within the practice of nursing if competency is not maintained or the standards of competence are not satisfied, or both.
5. Disclosing the contents of the examination for licensure or certification, or soliciting, accepting or compiling information regarding the contents of the examination before, during or after its administration.
6. Assigning or delegating functions, tasks or responsibilities of licensed or certified persons to unqualified persons.
7. Failing to supervise a person to whom functions of nursing are delegated or assigned, if responsible for supervising that person.
8. Failing to safeguard a patient from the incompetent, abusive or illegal practice of any person.
9. Practicing nursing while, with or without good cause, his or her physical, mental or emotional condition impairs his or her ability to act in a manner consistent with established or customary nursing standards, or both.
10. Practicing nursing, if any amount of alcohol or a controlled substance or dangerous drug that is not legally prescribed is present in the body of the nurse, nursing assistant or medication aide - certified as determined by a test of the blood, saliva, breath, hair or urine of the nurse, nursing assistant or medication aide - certified given while the nurse, nursing assistant or medication aide - certified is on duty.

11. Having present in the body of the nurse, nursing assistant or medication aide - certified alcohol or a controlled substance or dangerous drug that is not legally prescribed during a test of the blood, saliva, breath, hair or urine of the nurse, nursing assistant or medication aide - certified given as a condition of employment.

12. Failing to respect and maintain a patient's right to privacy.

13. Violating a patient's confidentiality.

14. Performing or offering to perform the functions of a licensee or holder of a certificate by false representation or under a false or an assumed name.

15. Failing to report the gross negligence of a licensee or holder of a certificate in the performance of his or her duties or a violation of the provisions of this chapter or chapter 632 of NRS.

16. Failing to document properly the administration of a controlled substance, including, but not limited to:

(a) Failing to document the administration of a controlled substance on the Controlled Substance Administration Record, the patient's Medication Administration Record and the Nursing Progress Notes, including the patient's response to the medication;

(b) Documenting as wastage a controlled substance and taking that controlled substance for personal or other use;

(c) Failing to document the wastage of a controlled substance that was not legally administered to a patient;

(d) Soliciting the signature on any record of a person as a witness to the wastage of a controlled substance when that person did not witness the wastage; or

(e) Signing any record as a witness attesting to the wastage of a controlled substance which he or she did not actually witness.

17. *Issuing a written prescription for a controlled substance listed in schedule II, III or IV to a patient without meeting the requirements of NAC 632.259.*

18. Soliciting services or soliciting or borrowing money, materials or other property, or any combination thereof, from a:

- (a) Patient;
- (b) Family member of a patient;
- (c) Person with significant personal ties to a patient, whether or not related by blood; or
- (d) Legal representative of a patient.

~~18.~~ 19. Diverting supplies, equipment or drugs for personal or unauthorized use.

~~19.~~ 20. Aiding, abetting or assisting any person in performing any acts prohibited by law.

~~20.~~ 21. Inaccurate recording, falsifying or otherwise altering or destroying records.

~~21.~~ 22. Obtaining, possessing, furnishing or administering prescription drugs to any person, including himself or herself, except as directed by a person authorized by law to prescribe drugs.

~~22.~~ 23. Leaving an assignment without properly notifying the appropriate personnel or abandoning a patient in need of care.

~~23.~~ 24. Exploiting a patient for financial gain or offering, giving, soliciting or receiving fees or gifts for the referral of a:

- (a) Patient;
- (b) Family member of a patient;
- (c) Person with significant personal ties to a patient, whether or not related by blood; or

(d) Legal representative of a patient.

~~{24.}~~ 25. Failing to collaborate with other members of a health care team as necessary to meet the health needs of a patient.

~~{25.}~~ 26. Failing to observe the conditions, signs and symptoms of a patient, to record the information or to report significant changes to the appropriate persons.

~~{26.}~~ 27. Failing to abide by any state or federal statute or regulation relating to the practice of nursing.

~~{27.}~~ 28. Failing to perform nursing functions in a manner consistent with established or customary standards.

~~{28.}~~ 29. Causing a patient or the family of the patient physical, mental or emotional harm by taking direct or indirect actions or failing to take appropriate actions.

~~{29.}~~ 30. Engaging in sexual contact with a patient or client.

~~{30.}~~ 31. Failing as a chief nurse to:

(a) Institute standards of nursing practice so that safe and effective nursing care is provided to patients;

(b) Institute standards of competent organizational management and management of human resources so that safe and effective nursing care is provided to patients; or

(c) Create a safe and effective environment, including the failure to assess the knowledge, skills and ability of a licensee or holder of a certificate and determine his or her competence to carry out the requirements of his or her job.

~~{31.}~~ 32. Failing to report the unauthorized practice of nursing.

~~{32.}~~ 33. Endangering the safety of the general public, patients, clients or coworkers by making actual or implied threats of violence or carrying out an act of violence.

~~{33.}~~ 34. Abusing a patient.

~~{34.}~~ 35. Neglecting a patient.

~~{35.}~~ 36. Misappropriating the property of a patient.

~~{36.}~~ 37. Failing to comply with a condition, limitation or restriction which has been placed on his or her license or certificate.

~~{37.}~~ 38. Engaging in the practice of nursing or performing the services of a nursing assistant or medication aide - certified without a license or certificate issued pursuant to the provisions of this chapter and chapter 632 of NRS.

~~{38.}~~ 39. Displaying a license, certificate, diploma or permit, or a copy of a license, certificate, diploma or permit, which has been fraudulently purchased, issued, counterfeited or materially altered.

~~{39.}~~ 40. Engaging in a pattern of conduct that demonstrates failure to exercise the knowledge, skills, and abilities using the methods ordinarily exercised by a reasonable and prudent nurse to protect the public.

~~{40.}~~ 41. Committing an error in the administration or delivery of medication to a patient.

~~{41.}~~ 42. Failing to cooperate with an investigation conducted by the Board.

~~{42.}~~ 43. Engaging in any other unprofessional conduct with a patient or client that the Board determines is outside the professional boundaries generally considered acceptable in the profession, including, without limitation, a violation of the guidelines of the American Nurses Association or the National Council of State Boards of Nursing concerning the appropriate use of social media.

**Sec. 3.** Section 5 of LCB File No. R114-13 is hereby amended to read as follows:

Sec. 5. Each advanced practice registered nurse shall maintain a portfolio, which must include, without limitation:

1. A copy of each license relating to nursing that the advanced practice registered nurse holds;
2. A copy of the license issued by the Board pursuant to NAC 632.2595, if applicable;
3. A copy of the policy of professional liability insurance required pursuant to section 3 of this regulation;
4. A list of all locations at which the advanced practice registered nurse:
  - (a) Currently practices; and
  - (b) Has practiced within the 2 years immediately preceding his or her most recent application for a license or renewal of a license to practice as an advanced practice registered nurse;
5. Evidence of any national certifications or other certifications relating to nursing which the advanced practice registered nurse has received;
6. The protocol required by paragraph (b) of subsection 3 of NRS 632.237, if the advanced practice registered nurse prescribes a controlled substance listed in schedule II and does not have the experience described in paragraph (a) of subsection 3 of NRS 632.237;
7. Proof of the hours of continuing education that the advanced practice registered nurse has completed in the 4 years immediately preceding his or her most recent application for a license or renewal of a license to practice as an advanced practice registered nurse;
8. Copies of the transcripts from the program completed by the advanced practice registered nurse as required pursuant to NAC 632.260 and from any other institution of higher education attended by the advanced practice registered nurse; ~~and~~

9. An attestation which states that the advanced practice registered nurse will not practice outside the scope of his or her education, role or population of focus **†**; *and*

*10. If the advanced practice registered nurse is authorized to issue written prescriptions for controlled substances, poisons, dangerous drugs and devices, proof that the advanced practice registered nurse has obtained access to the database of the computerized program established pursuant to NRS 453.1545.*