



**Virginia Board of Nursing Overview:
Laws and Regulations, RN/LPN Scope of Practice,
Delegation to ULPs, Discipline & Resources**

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**HEAD START ANNUAL CONFERENCE
OCTOBER 28, 2015**

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Objectives: Participants will be able to:

- Describe the role and mission of the Virginia Board of Nursing and its functions in regulating nursing practice
- Understand authority to practice and scope of practice for licensed nurses & applicants
- Understand principles of delegation to unlicensed persons



- Objectives:** Participants will be able to:
- Describe the disciplinary process & most common causes for action for nurses
 - Describe the current issues, trends and regulations of the Board of Nursing
 - Understand how to access resources available



Mission Statement = Public Protection

- **DHP:** Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.
- **Board of Nursing:** To assure the safe and competent practice of nursing to protect the health, safety and welfare of the citizens of the Commonwealth.



Guiding Principles of Nursing Regulation

- Protection of the public
- Competency of all practitioners regulated by the BON
- Due process and ethical, fair decision-making
- Shared accountability
- Strategic collaboration
- Evidence-based regulation
- Response to the marketplace and health care environment
- Globalization of nursing



Board of Nursing

Membership = 13

- 7 Registered Nurses (at least 1 Nurse Practitioner)
- 3 Licensed Practical Nurses
- 3 Citizen Members

Appointed by the Governor – 4 year term

Full Board meets every other month

Department of Health Professions – oversight of 13 boards

Licensure fees sole source of funding



Board of Nursing Primary Duties and Functions

- Licensure, certification and registration
- Maintain Nurse Aide, Med Aide, CNS & CMT registries
- Approval of Education Programs - Nursing, Nurse Aide and Medication Aide
- Discipline – investigate complaints & take action
- Administration of the Nurse Licensure Compact
- Promulgate Regulations Governing the Practice of Nursing and other regulated professions
- Collect nursing workforce data
- Develop guidelines related to med administration



Key Components of Nurse Practice Act

- Definitions of Practice – Va Code § 54.1- 3000
- Board of Nursing – composition; powers & duties
- Qualifications for Licensure and Certification
- Approval of Nursing, Nurse Aide and Medication Aide Education Programs
- Disciplinary Provisions
- Nurse Licensure Compact Provisions



Approval of Education Programs

- Registered Nurse Schools: 80
 - Associate Degree 45
 - Diploma 1
 - Baccalaureate 34
- Practical Nursing Programs – 62
- Nurse Aide Education Programs - 259
- Advanced Nurse Aide Education Programs - 5
- Medication Aide Education Programs – 237



Licensure Count = 216,652
(as of 9/30/2015)

- Registered Nurses – 104, 896
 - Licensed Nurse Practitioners – 8,481
 - Prescriptive Authority – 5,504
 - Clinical Nurse Specialists - 443
- Licensed Practical Nurses – 30,113
- Certified Massage Therapists – 7,681
- Registered Medication Aides – 5,810
- Certified Nurse Aides – 53,647
- Advanced Certified Nurse Aides – 77

NOTE: 18,403 new licenses issued in the past fiscal year



Licensure and Certification

- Examination (Authorization to test - up to 90 days from grad)
- Endorsement (30 day letter)
- Renewal - licensee responsible; will not forward; illegal practice
- Reinstatement
 - RN/LPN – license lapsed for more than 2 years
 - Suspended or revoked
- Continued Competency Requirements – renewal/reinstate
- Inactive RN/LPN - reduced fee & no CC; can use title, but not practice



Ensuring Authority for new hires to Practice?

- ATT letter (applicant by exam) -OR-
- 30 day Authorization to practice letter (applicant by endorsement) -OR-
- RN/LPN license -OR-
- License in another Compact State - with multistate privileges

Nurse Licensure Compact :

- State based licensure in PSOR = nationally recognized, but locally enforced
- Virginia is 1 of 25 states now in Compact
- Single state license if: reside outside state; on probations/terms; participating in alternative program (HPMP)



Options for Verification of Licensure with Virginia Board of Nursing

- www.dhp.virginia.gov/licenselookup
(takes 24 hours to reflect license information) -OR-
- www.nursys.com -OR-
- Phone call to Board office as last resort
804-367-4515



Board Expectations = Preamble to Regs

- The Board believes that each practitioner of nursing is accountable to the Commonwealth and to the public to maintain high professional standards of practice in keeping with the ethics of the profession of nursing.
- The nurse is responsible and accountable for making decisions that are based upon educational preparation and experience in nursing. The nurse shall be held accountable for the quality and quantity of nursing care given patients by himself or others who are under his supervision.



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Why can I not get a specific answer from the Board of Nursing?

- Board staff not authorized to further interpret law or regulations - per Office of Attorney General
- Purposefully broad definition of scope to allow for flexibility and adjustment to current practice
- Would be impossible to keep up with changes in the technology, environment and clinical practice
- Definitions of professions in Code and curriculum regs define the scope unless otherwise prohibited in law and regulation
- Broad definition of scope allows for employers to decide authorization for particular skills and procedures. Employers may be more restrictive than law/regs, if they choose



Scope of Practice - Practical Nursing

"Practical nursing" or "licensed practical nursing" means the performance for compensation of selected nursing acts in the care of individuals or groups who are ill, injured, or experiencing changes in normal health processes; in the maintenance of health; in the prevention of illness or disease; or, subject to such regulations as the Board may promulgate, in the teaching of those who are or will be nurse aides. Practical nursing or licensed practical nursing requires knowledge, judgment and skill in nursing procedures gained through prescribed education. Practical nursing or licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a professional nurse, registered nurse or registered professional nurse or other licensed health professional authorized by regulations of the Board.

Code of Virginia §54.1-3000

www.dhp.virginia.gov



LPN Scope Includes

- With or without compensation
- Selected nursing acts
- Individuals or groups – ill, injured, maintenance of health
- Teaching of nursing aides
- Requires knowledge, judgment and skill in nursing procedures gained through prescribed education
- Under direction or supervision



Role of LPN

Role of the LPN is determined jointly by employer and Board of Nursing laws and regulations

- Job description/Title (Employer and Board of Nursing)
- Assignment – Employer
- Supervision – Employer and Law
- Scope of Practice – Code of Virginia (law)
- Guidance Document 90-23: Decision Making Model for Determining RN/LPN Scope of Practice (consistent with education, skills, experience and current competence)



Job Description/Title

- Employer determines based on function and responsibilities within the organization
- Must be identified to patients as LPN while providing care irrespective of working title
(Board of Nursing Regulation 18VAC 90-20-35 A)
- Job description must not exceed scope as an LPN



Supervision

- Usually included in job description
- Supervision of practice required by the Code of Virginia - under direction or supervision of RN, MD, dentist
- Unless specified in certain sections of law, direct immediate or onsite supervision NOT required
- Exceptions §54.1-3408 Drug Control



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Assignment

- Determined by employer
- Employer and licensee to ensure that LPN is competent in area assigned
- Board of Nursing regulations do not limit or specify job assignments
- Law and regulations do not prohibit assigning management or supervisory organizational responsibilities
- Staffing ratios not included in Board of Nursing law or regulations



Scope of Practice for Registered Nursing

"Professional nursing," "registered nursing" or "registered professional nursing" means the performance for compensation of any nursing acts in the observation, care and counsel of individuals or groups who are ill, injured or experiencing changes in normal health processes or the maintenance of health; in the prevention of illness or disease; in the supervision and teaching of those who are or will be involved in nursing care; in the delegation of selected nursing tasks and procedures to appropriately trained unlicensed persons as determined by the Board; or in the administration of medications and treatments as prescribed by any person authorized by law to prescribe such medications and treatment. Professional nursing, registered nursing and registered professional nursing require specialized education, judgment, and skill based upon knowledge and application of principles from the biological, physical, social, behavioral and nursing sciences.

Code of Virginia §54.1-3000



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RN Education Programs

- Includes components in LPN education curriculum requirement
- Includes additional curriculum requirements related to comprehensive nursing assessment
- Didactic content and supervised experience in:
 - Clinical judgment
 - Leadership skills
 - Delegation
 - Plan of care
 - Pathophysiology
- LPN programs minimum 400 hours supervised direct client care
- RN programs minimum 500 hours supervised direct client care



Assessments? RN vs. LPN

- LPN – performance of “selected” nursing acts
- RN – performance of “any” nursing acts, then adds
 - Observation, care and counsel
 - Specialized education
 - Knowledge and skills
 - Application of principles
(biological, physical, social, behavioral and nursing sciences)

Va Code § 54.1-3000



Assessments? RN vs. LPN

- LPN - focused assessment
 - gathers data to contribute to assessment
 - reports findings/results to RN
- RN - comprehensive, initial & ongoing
 - synthesizes the information
 - based on professional nursing judgment and knowledge base



What can Unlicensed Personnel Do?

- It depends....but the answer lies in Delegation!
Delegation of certain nursing task and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a RN, who retains responsibility and accountability for such delegation
...Pursuant to Va Code §54.1-3005(12) & BON Regulations
- Unless otherwise authorized in law
...Va Drug Control Act (Va Code §54.1-3408)



Delegation

- Transfer of authority = by a RN to a competent ULP the authority to perform a selected nursing tasks and procedures in a specific situation, in accord with regs
- BON Regulations 18 VAC 90-20-420 to 90-20-460
- Task/procedure **MUST NOT** involve:
 - assessment, evaluation or independent nursing judgment
 - complex observations or critical decisions
 - Require frequent, repeated nursing assessments
- Task/procedure **MUST**:
 - frequently recur in routine care & have standard procedure
 - have predictable results & consequences of improper performance minimal and not life-threatening



Delegation (cont'd)

- Involves assessment, supervision, accountability
- Appropriate delegation includes determining:
 - **Right** task
 - **Right** circumstance
 - **Right** person
 - **Right** direction/communication
 - **Right** supervision
- Not one-size fits all
- C.N.A.s are ULPs for purposes of delegation



Delegation (cont'd)

- No laundry list of what can be delegated
- Regs include what may NOT be delegated in:

BON Regulation 18 VAC 90-20-460(B)

1. Activities involving nursing assessment, problem identification & outcome evaluation which require independent nursing judgment
2. Coordination & management of care involving collaboration, consultation & referral
3. Emergency & nonemergency triage
4. Administration of medications, except as specifically permitted by the Va Drug Control Act
5. Circulating duties in an operating room



Excerpts from Drug Control Act (DCA) Pertaining to Nurses & ULPs

Please access the complete language www.dhp.virginia.gov/Pharmacy

§54.1-3408 of Va Code: Professional use by practitioners

- A) Who can prescribe? – includes nurse practitioners
- B) Prescriptions – written and verbal Rxs & who can administer (“nurse” – does not specify; nor limit type med/route)
- C) Radiopharmaceuticals written order or standing protocols – nuclear medicine technologists
- D) RN and LPN possess/administer epinephrine, oxygen, heparin, and normal saline; school nurses and ULPs (employed by school board, health dept & local governing body) can possess/administer epinephrine per standing protocol & training



DCA (continued)

§54.1-3408

G) Authorizes RN and LPN (under direct and immediate supervision of) administration of PPD in absence of prescriber all in accordance with Dept. of Health guidelines

H) ULP Employee of school board with training - insulin and glucagon

I) RN and LPN (under direct and immediate supervision of), EMT & pharmacists can administer adult vaccines in absence of prescriber per Board approved protocol

K) Order or protocol RN SANE certified – possession/administration of preventative medications to victims of sexual assault



§54.1-3408 DCA (continued)

- L) ULPs normally self-administered medication in certain settings if completed BON approved training (DBHDS, DJJ, DSS adult day-care or children residential facilities, VRCBVI, jails/facilities operated by government whose primary purpose not to provide health care)
- M) Administration by medication aides in ALFs, registered with BON
- N) ULPs normally self-administered drugs in accordance with MD instructions, written parent authorization & school board regulations (with training – approved by local school boards & health dept)
- O) ULPs administer drugs in child day care programs & private schools if completed BON approved training program, and per MD/Rx label
- P) Administration as authorized by anyone authorized by State Health Commissioner when Governor declares State of Emergency



DCA (continued)

§54.1-3408

Q) ULPs normally self-administered drugs to a person in his private residence

S) Dialysis care technicians – heparin, saline blood volumizers, topical anesthetics

T) Administer influenza and pneumococcal vaccines in hospitals

U) Controlled substance administration by ULPs properly trained to assist physician & under direct, immediate supervision of prescriber (but not IV, epidural or intrathecal)



DCA (continued)

§54.1-3408

V) Nurse may possess/administer topical fluoride varnish: 6 months – 3 years in compliance with authorized protocols

W) Administration of vaccines to minors by RN's and LPN's (under direct and immediate supervision of RN when prescriber is not present); also by pharmacists & EMTs

X) UL family friend may possess/administer naloxone – counter opiate overdose



Discipline

- Cases Received: FY 2015

1660 = Nursing

668 = Nurse Aide

- Cases Closed: FY 2015

1565 = Nursing

684 = Nurse Aide

- Conduct ~700 **Informal Conferences** per year

– (*72 days in CY 2014; 545 cases closed at IFC in FY2015)

- Conduct >160 **Formal Hearings** per year (167 in FY2015)

- **Key Performance Measures** — age of case (89% w/in 250 days); clearance rate (91%); pending cases older than 250 days (6%)



Causes for Denial & Disciplinary Action (Va Code § 54.1-3007)

- (1) Fraud or deceit in procuring or attempting to procure a license - see regulations
- (2) Unprofessional conduct – see regulations
- (3) Willful or repeated violation of any of the provisions of this chapter
- (4) Conviction of any felony or any misdemeanor involving moral turpitude



Causes for Disciplinary Action (cont'd)

- (5) Practicing in a manner contrary to the standards of ethics or in such a manner as to make his practice a danger to the health and welfare of patients or the public
- **(6) Use of alcohol or drugs to the extent that such renders him unsafe to practice; or any mental or physical illness rendering him unsafe to practice**
- (7) The denial, revocation, suspension or restriction of a license or certificate to practice in another state, the District of Columbia or a United States possession or territory
- (8) Abuse, negligent practice or misappropriation of patient's or resident's property



Most Frequent Categories of Discipline Cases

CNAs:

- Abuse/Neglect/Misappropriation of Patient Property
- Convictions
- Standard of Care

RNs:

- Inability to safely practice (Impairment)
- Obtaining drugs by fraud
- Standard of care
- Unlicensed Activity
- Social Media/Boundary/Confidentiality



Most Frequent Categories of Discipline Cases

LPNs:

- Obtaining drugs by fraud
- Fraud
- Abuse
- Neglect
- Standard of care
- Inability to safely practice (impairment)
- Social Media/Boundary/Confidentiality



Discipline Process

- Complaint/Report (non-public)
- Investigation (non-public)
- Staff and Board Review of investigation (non-public)
 - Close or close undetermined
 - Advisory Letter (in lieu of disciplinary action – non public)
 - Confidential Consent Agreement (in lieu of disciplinary action – non public)
- Pre-Hearing Consent Order (public once accepted)
- Informal Conference (Notice is public)
- Formal Hearing (Notice of formal hearing is public)
- Board action/sanctions (Orders are public)



Exceptions to Disciplinary Process

- **Mandatory Suspension (by DHP Director)**
felony conviction; adjudicated legally incompetent; or
suspension/revocation in another state

§ 54.1-2409 Code of Virginia

- **Summary Suspension**

Criteria= substantial danger to public health or safety

§ 54.1-2408 Code of Virginia



Case Outcomes

- Confidential Consent Agreement (CCA)
- Advisory Letter
- Closure
- Violation of Law - no sanction
- Reprimand
- Probation
- Terms
- Suspension
- Revocation

Sanction Reference Points used for consistency. For typical sanctions for certain case types - see Guidance Document 90-12



BON Regulation 18VAC90-20-300 Disciplinary Provisions

- Fraud or deceit shall mean, but shall not be limited to:
 - a. Filing false credentials;
 - b. Falsely representing facts on an application for initial license or certificate, reinstatement or renewal of a license or certificate;
 - c. Giving or receiving assistance in writing the licensing or competency examination.



18VAC90-20-300 Disciplinary Provisions (continued)

Unprofessional conduct means, but shall not be limited to:

- a. Performing acts beyond the limits of the practice of professional or practical nursing.
- b. Assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained.
- c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;
- d. Employing or assigning unqualified persons to perform functions that require a licensed practitioner of nursing.



18VAC90-20-300 Disciplinary Provisions (continued)

- e. Falsifying or otherwise altering patient or employer records;
- f. Abusing, neglecting or abandoning patients or clients.
- g. Practice of a clinical nurse specialist beyond their scope
- h. Representing self as a CNS unless registered as such
- i. Delegate nursing tasks to unlicensed person in violation of regs
- j. Giving to or accepting money or property of a patient or client property or money for any reason other than fee for service or a nominal token of appreciation
- k. Obtaining money or property of a patient or client by fraud, misrepresentation or duress.



18VAC90-20-300 Disciplinary Provisions (continued)

- l. Entering into a relationship with a patient or client that constitutes a professional boundary violation in which the nurse uses his professional position to take advantage of the vulnerability of a patient, a client or his family, to include but not limited to actions that result in personal gain at the expense of the patient or client, a nontherapeutic personal involvement or sexual conduct with a patient or client;
- m. Violating state laws relating to the privacy of patient information
[NOTE: - Does not include federal law, ie HIPAA.]

****NO specific regulation for social media issues -- complaints are possible boundary or patient privacy/confidentiality violations ****



18VAC90-20-300 Disciplinary Provisions (continued)

- n. Providing false information to staff or board members in the course of an investigation or proceeding
- o. Failing to report evidence of child abuse or neglect or elder abuse or neglect as required by law (Va Code §§ 63.2-1509 and 1606)
- p. Violating any provisions of this chapter



Safe to Practice?

- **Approximately 60% of discipline cases are related to substance abuse/impairment**
- **Impairment:**
 - Substance abuse
 - Physical illness
 - Use of prescription medication
 - Sleep deprivation
 - Psychiatric/mental health
- **Mandatory Reporting – Va Code §§ 54.1-2400.6 and 2400.7**
- **Va Health Practitioners Monitoring Program (HPMP) is an alternative to disciplinary action.**



Breach of Confidentiality or Privacy

- Can be intentional or inadvertent
- Can occur in a variety of ways
- Posting information using social media such as:
 - * making comments about a patient in such detail to be identified
 - * referring to patients in a degrading or demeaning manner
 - * posting videos or photos of patients w/o consent



Case Example:

- Nurse employed in a facility was providing care to a terminally ill, pediatric patient. The nurse developed a close relationship with the patient and upon his death posted a tribute of sorts to him. Although this occurred after death and had good intentions, the patient's confidentiality was compromised as he was identified and other confidential, identifying information was posted.
- Outcome – report submitted to Board of Nursing and nurse received discipline for violation of state laws concerning patient confidentiality.



Avoiding Problems

- Nurses must recognize they have an ethical and legal obligation to maintain patient privacy & professional boundary.
- Nurses should not transmit by way of electronic media any patient related image or information that may violate the patients confidentiality, gained by nurse/patient relationship.
- DO NOT take pictures of or videos of patients on personal devices, including cell phones.
- Be aware of employee related policies on the use of personal computers, cameras and other electronic devices.
- See Guidance Document 90-48 – Use of Social Media



Reasons Cited for Practice/Medication Issues

- Staffing
- Lack of orientation and training
- New graduate
- Lack of support or supervision
- Stress
- Culture – “that is how everybody does it”
- Excessive overtime or sleep deprivation
- Anticipating medication orders/adjusting them (“standing orders”)
- No prior experience with volume of patients or meds
- Advanced set-up & documentation – due to time pressure



Advance Preparation of Medications

Guidance Document 110-18 (Pharmacy)

Revised: September 29, 2015

Interpretation of "administer" to include preparation for administration

- The Board of Pharmacy finds that the term "administer", as defined in § 54.1-3401, can be reasonably interpreted to include the advance preparation or "set up" of medications to be administered to patients provided such advance preparation is performed only by a person licensed to dispense or administer drugs (medical practitioner, pharmacist, registered nurse, licensed practical nurse, or physician assistant) and the advance preparation is reasonably concurrent with the actual administration and should not extend beyond the next scheduled dosage administration.
- However, if the advance preparation is to assist a patient, living in a private residence, in the administration of drugs which would normally be self administered, including insulin, such advance preparation shall not exceed a fourteen (14) day supply.



Advance Preparation of Medications cont'd

Guidance Document 110-18 (Pharmacy)

Revised: Sept 29, 2015

Interpretation of "administer" to include preparation for administration

- If the advance preparation, as performed by a person licensed to dispense or administer drugs, is to assist in the administration of medications to students during a single-day field trip, such advance preparation shall not be made prior to the last working day before the day of the field trip and shall not exceed a one-day supply. Any packaging used in such advance preparation shall include the student's name and any other appropriate student identifier; physician's name; drug name and strength, and quantity; and appropriate directions for administration. For any field trip which is longer than one day in length, a student's prescription medication should be provided by the student's parent or guardian in a properly labeled prescription vial which has been dispensed from a pharmacy and, for oral medications, which contains only the quantity needed for the duration of the field trip.



Current Issues for Virginia Board of Nursing

- Implementing CBC for RN/LPN licensure
 - Law passed July 1, 2015
 - Begins January 1, 2016
 - Apply to initial by exam & endorsement, plus reinstatement applicants
- Disciplinary Caseload – approximately 2,400 cases per year
- Virginia Performs – performance measures on DHP website
- Workforce/Nursing Shortages
 - DHP Healthcare Workforce Data Center
 - Workforce survey results - LNP, RN, LPN, posted on DHP website
- Move to Fully Online Application Processing
- Possible Paperless Licensing?
- Continued Competency for RN/LPN renewal of licensure
 - Began with August 2015 renewals; for “active” RN/LPNs only
 - 9 options to meet; attestation only



Current Issues for Virginia Board of Nursing

- New Regulations re: Nursing Education Program Approval Process – effective November 18, 2015
 - streamline procedures & processes
 - requires need demonstration for new programs;
 - includes provision for simulation in clinical experiences;
 - enforcement provisions for fraudulent and quality issues
- Impact of Increase in Technology
- Telehealth
- IOM Report on Future of Nursing (VAC Activities)
- TERCAP Participation & VCU Study
- Nurse Licensure Compact
 - Compliance with & Possible Enhanced Version of NLC
 - Possible APRN Compact (Consensus Model compliance)



How Can You Participate in Regulatory Process?

- Monitor BON meetings – all meetings, hearings and minutes are public
- Track regulatory actions on Townhall (www.townhall.virginia.gov)
- Provide public comment when Board requests
- Disseminate Board information to staff/colleagues
- Dialogue with Board staff
- Consider Petition for Rule-Making



Helpful Information/Resources

- www.dhp.virginia.gov/nursing - laws & regs, applications, guidance documents, license look-up & public orders, BON announcements, FAQs, meetings
- www.ncsbn.org — resources, videos, Compact information
- www.nursys.com - e-notify, Quick Confirm™, interstate verification
- www.learningext.com — NCLEX reviews, CE courses
- To file a complaint (1-800-533-1560)
- HPMP — 1-866-206-4747



Helpful Guidance Documents

- **Applicants:**
 - Guidance Documents 90-10 (App processing), 90-55 & 90-59 (implications of criminal convictions on licensure & employment)
- **Practice:**
 - Guidance Document 90-23 (Decision-making Model), 90-41 (abandonment), 90-48 (social media) 90-38 & 90-61 (practice on expired license/certificate)
- **Medication Administration:**
 - Guidance Document 90-36 (training guidelines for public school employees re: insulin/glucagon); 90-9 (guidelines for med admin training in child day programs) 90-2 (order transmission by 3rd party)
- **Discipline:**
 - Guidance Document 90-12 (Delegation to professional BON staff) & 90-7 (Sanction Referencing)



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