

Agenda Item: Regulatory –Emergency Action on regulations for autonomous practice for nurse practitioners

Enclosed are:

Copy of emergency regulations as amended by the Board of Medicine on 8/3/18

Staff note:

At its meeting on 8/3/18, the Board of Medicine discussed the public comment previously considered by the Board of Nursing and the regulations as adopted by that Board. One amendment was adopted relating to the definition of five years of full-time practice.

Board action:

Adoption of regulations as amended by the Board of Medicine or other action.

Project 5512 – Emergency Regulations

BOARDS OF NURSING AND MEDICINE

Autonomous practice

Part I

General Provisions

18VAC90-30-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Approved program" means a nurse practitioner education program that is accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs/Schools, American College of Nurse Midwives, Commission on Collegiate Nursing Education, or the National League for Nursing Accrediting Commission or is offered by a school of nursing or jointly offered by a school of medicine and a school of nursing that grant a graduate degree in nursing and which hold a national accreditation acceptable to the boards.

"Autonomous practice" means practice in a category in which a nurse practitioner is certified and licensed without a written or electronic practice agreement with a patient care team physician in accordance with 18VAC90-30-86.

"Boards" means the Virginia Board of Nursing and the Virginia Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957 of the Code of Virginia.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Collaboration" means the communication and decision-making process among members of a patient care team related to the treatment and care of a patient and includes (i) communication of data and information about the treatment and care of a patient, including exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"Consultation" means the communicating of data and information, exchanging of clinical observations and assessments, accessing and assessing of additional resources and expertise, problem solving, and arranging for referrals, testing, or studies.

"Licensed nurse practitioner" means an advanced practice registered nurse who has met the requirements for licensure as stated in Part II (18VAC90-30-60 et seq.) of this chapter.

"National certifying body" means a national organization that is accredited by an accrediting agency recognized by the U.S. Department of Education or deemed acceptable by the National Council of State Boards of Nursing and has as one of its purposes the certification of nurse anesthetists, nurse midwives or nurse practitioners, referred to in this chapter as professional certification, and whose certification of such persons by examination is accepted by the committee.

"Patient care team physician" means a person who holds an active, unrestricted license issued by the Virginia Board of Medicine to practice medicine or osteopathic medicine.

"Practice agreement" means a written or electronic statement, jointly developed by the collaborating patient care team physician(s) and the licensed nurse practitioner(s) that describes the procedures to be followed and the acts appropriate to the specialty practice area to be performed by the licensed nurse practitioner(s) in the care and management of patients. The practice agreement also describes the prescriptive authority of the nurse practitioner, if applicable. For a nurse practitioner licensed in the category of certified nurse midwife, the practice agreement is a statement jointly developed with the consulting physician.

18VAC90-30-20. Delegation of authority.

A. The boards hereby delegate to the executive director of the Virginia Board of Nursing the authority to issue the initial licensure and the biennial renewal of such licensure to those persons who meet the requirements set forth in this chapter, to grant authorization for autonomous practice to those persons who have met the qualifications of 18VAC90-30-86, and to grant extensions or exemptions for compliance with continuing competency requirements as set forth in subsection E of 18VAC90-30-105. Questions of eligibility shall be referred to the Committee of the Joint Boards of Nursing and Medicine.

B. All records and files related to the licensure of nurse practitioners shall be maintained in the office of the Virginia Board of Nursing.

18VAC90-30-50. Fees.

A. Fees required in connection with the licensure of nurse practitioners are:

- 1. Application \$125
- 2. Biennial licensure renewal \$80
- 3. Late renewal \$25
- 4. Reinstatement of licensure \$150

5. Verification of licensure to another jurisdiction	\$35
6. Duplicate license	\$15
7. Duplicate wall certificate	\$25
8. Return check charge	\$35
9. Reinstatement of suspended or revoked license	\$200
<u>10. Autonomous practice attestation</u>	<u>\$100</u>

B. For renewal of licensure from July 1, 2017, through June 30, 2019, the following fee shall be in effect:

Biennial renewal	\$60
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18VAC90-30-85. Qualifications for licensure by endorsement.

A. An applicant for licensure by endorsement as a nurse practitioner shall:

1. Provide verification of licensure as a nurse practitioner or advanced practice nurse in another U.S. jurisdiction with a license in good standing, or, if lapsed, eligible for reinstatement;
2. Submit evidence of professional certification that is consistent with the specialty area of the applicant's educational preparation issued by an agency accepted by the boards as identified in 18VAC90-30-90; and
3. Submit the required application and fee as prescribed in 18VAC90-30-50.

B. An applicant shall provide evidence that includes a transcript that shows successful completion of core coursework that prepares the applicant for licensure in the appropriate specialty.

C. An applicant for licensure by endorsement who is also seeking authorization for autonomous practice shall comply with subsection F of 18VAC90-30-86.

18VAC90-30-86. Autonomous practice (for nurse practitioners other than certified nurse midwives or certified registered nurse anesthetists).

A. A nurse practitioner with a current, unrestricted license, other than someone licensed in the category of certified nurse midwife or certified registered nurse anesthetist, may qualify for autonomous practice by completion of the equivalent of five years of full-time clinical experience as a nurse practitioner.



1. Five years of full-time clinical experience shall be defined as ~~4,600~~ 1,800 hours per year for a total of ~~8,000~~ 9,000 hours.

2. Clinical experience shall be defined as the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

B. Qualification for authorization for autonomous practice shall be determined upon submission of a fee as specified in 18VAC90-30-50 and an attestation acceptable to the boards. The attestation shall be signed by the nurse practitioner and the nurse practitioner's patient care team physician stating that:

1. The patient care team physician served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this chapter and §§ 54.1-2957 and 54.1-2957.01 of the Code of Virginia;

2. While a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category, as specified in 18VAC90-30-70, for which the nurse practitioner was certified and licensed;
and

3. The period of time and hours of practice during which the patient care team physician practiced with the nurse practitioner under such a practice agreement.

C. The nurse practitioner may submit attestations for more than one patient care team physician with whom he practiced during the equivalent of five years of practice, but all attestations shall be submitted to the boards at the same time.

D. If a nurse practitioner is licensed and certified in more than one category, as specified in 18VAC90-30-70, a separate fee and attestation that meets the requirements of subsection B shall be submitted for each category. If the hours of practice are applicable to the patient population and in practice areas included within each of the categories of licensure and certification, those hours may be counted towards a second attestation.

E. In the event a patient care team physician has died, become disabled, retired, or relocated to another state, or other circumstance that inhibits the ability of the nurse practitioner from obtaining an attestation as specified in subsection B, the nurse practitioner may submit other evidence of meeting the qualifications for autonomous practice along with an attestation signed by the nurse practitioner. Other evidence may include employment records, military service, Medicare or Medicaid reimbursement records, or other similar records that verify full-time clinical practice in the role of a nurse practitioner in the category for which he is licensed and certified. The burden shall be on the nurse practitioner to provide sufficient evidence to support the nurse practitioner's inability to obtain an attestation from a patient care team physician.

F. A nurse practitioner to whom a license is issued by endorsement may engage in autonomous practice if such application includes an attestation acceptable to the boards that the nurse practitioner has completed the equivalent of five years of full-time clinical experience as specified in subsection A of this section and in accordance with the laws of the state in which the nurse practitioner was previously licensed.

G. A nurse practitioner authorized to practice autonomously shall:

1. Only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care;
2. Consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided; and
3. Establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

18VAC90-30-110. Reinstatement of license.

A. A licensed nurse practitioner whose license has lapsed may be reinstated within one renewal period by payment of the current renewal fee and the late renewal fee.

B. An applicant for reinstatement of license lapsed for more than one renewal period shall:

1. File the required application and reinstatement fee;
2. Be currently licensed as a registered nurse in Virginia or hold a current multistate licensure privilege as a registered nurse; and
3. Provide evidence of current professional competency consisting of:
 - a. Current professional certification by the appropriate certifying agency identified in 18VAC90-30-90;
 - b. Continuing education hours taken during the period in which the license was lapsed, equal to the number required for licensure renewal during that period, not to exceed 120 hours; or
 - c. If applicable, current, unrestricted licensure or certification in another jurisdiction.
4. If qualified for autonomous practice, provide the required fee and attestation in accordance with 18VAC90-30-86.

C. An applicant for reinstatement of license following suspension or revocation shall:

1. Petition for reinstatement and pay the reinstatement fee;
2. Present evidence that he is currently licensed as a registered nurse in Virginia or hold a current multistate licensure privilege as a registered nurse; and
3. Present evidence that he is competent to resume practice as a licensed nurse practitioner in Virginia to include:
 - a. Current professional certification by the appropriate certifying agency identified in 18VAC90-30-90; or
 - b. Continuing education hours taken during the period in which the license was suspended or revoked, equal to the number required for licensure renewal during that period, not to exceed 120 hours.

The committee shall act on the petition pursuant to the Administrative Process Act, § 2.2-4000 et seq. of the Code of Virginia.

Part III

Practice of Licensed Nurse Practitioners

18VAC90-30-120. Practice of licensed nurse practitioners other than certified registered nurse anesthetists or certified nurse midwives.

A. A nurse practitioner licensed in a category other than certified registered nurse anesthetist or certified nurse midwife shall be authorized to render care in collaboration and consultation with a licensed patient care team physician as part of a patient care team or if determined by the boards to qualify in accordance with 18VAC90-30-86, authorized to practice autonomously without a practice agreement with a patient care team physician.

B. The practice shall be based on specialty education preparation as an advanced practice registered nurse in accordance with standards of the applicable certifying organization, as identified in 18VAC90-30-90.

C. All nurse practitioners licensed in any category other than certified registered nurse anesthetist or certified nurse midwife shall practice in accordance with a written or electronic practice agreement as defined in 18VAC90-30-10 or in accordance with 18VAC90-30-86.

D. The written or electronic practice agreement shall include provisions for:

1. The periodic review of patient charts or electronic patient records by a patient care team physician and may include provisions for visits to the site where health care is delivered in the manner and at the frequency determined by the patient care team;

2. Appropriate physician input in complex clinical cases and patient emergencies and for referrals; and

3. The nurse practitioner's authority for signatures, certifications, stamps, verifications, affidavits, and endorsements provided it is:

a. In accordance with the specialty license of the nurse practitioner and within the scope of practice of the patient care team physician;

b. Permitted by § 54.1-2957.02 or applicable sections of the Code of Virginia; and

c. Not in conflict with federal law or regulation.

E. The practice agreement shall be maintained by the nurse practitioner and provided to the boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and

responsibilities; however, the nurse practitioner shall be responsible for providing a copy to the boards upon request.

Part III

Practice Requirements

18VAC90-40-90. Practice agreement.

A. With the ~~exception of~~ exceptions listed in subsection E of this section, a nurse practitioner with prescriptive authority may prescribe only within the scope of the written or electronic practice agreement with a patient care team physician.

B. At any time there are changes in the patient care team physician, authorization to prescribe, or scope of practice, the nurse practitioner shall revise the practice agreement and maintain the revised agreement.

C. The practice agreement shall contain the following:

1. A description of the prescriptive authority of the nurse practitioner within the scope allowed by law and the practice of the nurse practitioner.
2. An authorization for categories of drugs and devices within the requirements of § 54.1-2957.01 of the Code of Virginia.
3. The signature of the patient care team physician who is practicing with the nurse practitioner or a clear statement of the name of the patient care team physician who has entered into the practice agreement.

D. In accordance with § 54.1-2957.01 of the Code of Virginia, a physician shall not serve as a patient care team physician to more than six nurse practitioners with prescriptive authority at any one time.

E. Exceptions.

1. A nurse practitioner licensed in the category of certified nurse midwife and holding a license for prescriptive authority may prescribe in accordance with a written or electronic practice agreement with a consulting physician or may prescribe Schedule VI controlled substances without the requirement for inclusion of such prescriptive authority in a practice agreement.

2. A nurse practitioner who is licensed in a category other than certified nurse midwife or certified registered nurse anesthetist and who has met the qualifications for autonomous practice as set forth in 18VAC90-30-86 may prescribe without a practice agreement with a patient care team physician.