

ADMINISTRATIVE RULES OF THE BOARD OF NURSING

Vermont Board of Nursing
Administrative Rules
Effective: May 11, 2023

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Part 1 Definitions

As used in these Rules:

“Advanced Practice Registered Nurse” or **“APRN”** is defined at 26 V.S.A. § 1572(4).

“Board” or **“the Board”** means the Vermont Board of Nursing.

“Board website” means the primary Office website assigned to the Vermont Board of Nursing, found at sos.vermont.gov/nursing/ or a designated successor location.

“Compact” means the Nurse Licensure Compact adopted pursuant to 26 V.S.A. § 1647 *et seq.* The Compact facilitates interstate practice among RNs and LPNs from party states; it is not applicable to APRN or LNA practice.

“Compact State” means a jurisdiction that is a member of the Compact.

“Convert” means to change a multistate license to a single-state license, secondary either to a disqualifying event or to relocation from a Compact State to a non-Compact State; or to change a single-state license to a multistate license when a disqualifying event is eliminated.

“Current Practice Competence” means ongoing competence to practice registered nursing or licensed practical nursing, which may be established by documenting any one of the following:

- (1) active practice of the licensed profession totaling at least 50 days (400 hours) in the previous 2 years or 120 days (960 hours) in the previous 5 years, verified by appropriately certified employment records;
- (2) satisfactory completion of 20 hours of qualifying continuing education in the two years immediately preceding application; or
- (3) current, nationally recognized certification.

“Deactivate” means to change the status of a multistate license or privilege to practice from active to inactive.

“Director” means the Director of Professional Regulation.

“Direct Supervision” means supervision of a licensee’s practice by a nurse physically present on the unit.

“Disqualifying Event” means an incident, which results in a person becoming disqualified or ineligible to retain or renew a multistate license. These include but are not limited to the following: any adverse action resulting in an encumbrance, current participation in an alternative program, a misdemeanor offense related to the practice of nursing (which includes, but is not limited to, an agreed disposition), or a felony offense (which includes, but is not limited to, an agreed disposition).

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“Executive Director” means the Executive Director of the Board, employed by the Office pursuant to 26 V.S.A. § 1574(b) to carry out the work of the Board.

“Governing Organization” means the agency or institution that has the authority and responsibility for financing a nursing education program, employing the administrator and faculty, graduating students, and granting the nursing diploma, certificate, or degree.

“High-fidelity” refers to simulation experiences that are extremely realistic and provide a high level of interactivity and realism for the learner (International Nursing Association for Clinical Simulation and Learning, 2013). It can apply to any mode or method of simulation; for example: human, manikin, task trainer, or virtual reality

“Licensed Practical Nurse” or **“LPN”** means licensed practical nurse.

“Licensed Practical Nursing” is defined at 26 V.S.A. § 1572(3).

“Medium-Fidelity Simulation Learning” means the use of low-technology mannequins or actors to demonstrate a condition within a simulated learning environment without automatic or programmed clues.

“Nationally Recognized Certification” means a specialty certification by a national nursing certification board or agency issued based upon a nurse’s successful passing of an exam designed to validate a mastery of knowledge and skill within a specific area of nursing practice and/or patient population focus.

“Nursing Assistant” or **“LNA”** means licensed nursing assistant.

“NCLEX” means National Council Licensure Examination.

“Office” means the Office of Professional Regulation

“Office website” means the primary website of the Office of Professional Regulation, found at <https://sos.vermont.gov/opr/> or a designated successor location.

“On-Site Supervision” means active oversight and monitoring of a licensee’s practice by a specifically assigned nurse who is present on the premises of a facility at all times the supervised licensee is practicing.

“Practice of nursing” is defined at 26 V.S.A. § 1572 and includes using in connection with one’s name, words, letters, signs or figures which imply that a person is an RN, LPN, or APRN. See 26 V.S.A. § 1584(a).

“Preceptor” means an Advanced Practice Registered Nurse or Registered Nurse who serves as a facilitator and supervisor of student learning experiences in a practice setting.

“Program” or **“Nursing Education Program”** means a formal education program, based on a structured curriculum and clinical experience, designed to prepare students to qualify for licensure and to practice as APRNs, RNs, or LPNs.

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“Qualifying continuing education” means continuing education that has been approved and assigned a credit value by an organization approved by the American Nurses Credentialing Center's Commission on Accreditation, or by another verifying authority approved by the Board, or directly by the Board.

“Registered Nurse” or **“RN”** means licensed registered nurse.

“Registered Nursing” is defined at 26 V.S.A. § 1572(2).

“Unencumbered license” means a license that authorizes a nurse to engage in the full and unrestricted practice of nursing without special conditions, limitations, or supervision.

Part 2 Administration

2-1 Applicable Law. The practice of nursing and “nursing related functions” is regulated pursuant to 26 V.S.A. § 1571 *et seq.* Copies of these and other statutes are available online at www.legislature.vermont.gov/statutes/. The Office administers licensure in conformity with these and other Vermont laws, to include the Administrative Procedure Act, 3 V.S.A. § 800 *et seq.*; the Public Records Act, 1 V.S.A. § 315 *et seq.*; and the Laws of Professional Regulation, 3 V.S.A. § 121 *et seq.*

2-2 Resources for Applicants and Licensees. The Office website offers information of general application to Vermont licensed professionals, including policies of the Office, license lookup services, and disciplinary orders. The Board website, available at <http://sos.vermont.gov/nursing>, offers information specific to the practice of nursing, including policies and minutes of the Board, membership information, and practice guidance.

2-3 U.S. Armed Forces. The Director may accept toward the requirements of these rules relevant military education, training, or service completed by a member of the U.S. Armed Forces and may expedite licensure of a person who left licensed employment in another state secondary to a spouse’s military transfer to Vermont. 3 V.S.A. § 123(g). Service members and the spouses of service members should visit the Office website for details.

2-4 Executive Director. The Office employs an Executive Director of the Board. 26 V.S.A. § 1574(b). The powers and duties of the Executive Director include those appropriate to carry out the work of the Board and to execute State policy respecting the regulation of nursing practice, including without limitation:

- (a) guiding Office staff in the conduct of the Board’s affairs, the execution of Board directives, and the administration of applicable laws and policies;
- (b) appointing members of committees created by statute, these rules, or directive of the Board;
- (c) interpreting policies, making administrative decisions, and providing consultation regarding Board affairs such as nursing education, examination, registration, licensure, renewal, and practice questions;
- (d) surveying and monitoring nursing education programs;
- (e) preparing agendas, reports, and recommendations to the Board, and attending to official correspondence on the Board’s behalf;
- (f) orienting new Board members and nursing staff;
- (g) monitoring evolving policy and practice issues that may call for Board action;

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- (h) referring instances of misconduct and hazards to the public health, safety, and welfare to the Office's Enforcement Division and providing expert support to prosecutors as appropriate;
- (i) representing the Board at meetings, symposia, conferences, and the like; and
- (j) such other lawful duties as may be delegated by the Board or the Director in furtherance of the Board's mission and policies.

2-5 Committees

- (a) The Board shall maintain the following committees:
 - (1) a **Practice Committee**, to monitor evolving issues in nursing practice;
 - (2) an **APRN Subcommittee**, to study and report to the Board on matters relating to advanced practice registered nurse practice in conformity with 26 V.S.A. § 1615a;
 - (3) a **Disciplinary Alternative Program Committee**, to advise the Executive Director and Board on appropriate standards for admission to and administration of a program to serve as an alternative to the disciplinary process for nurses and nursing assistants with substance use disorder or other professional practice issues; and
 - (4) an **Education Committee**, to assist the Board with oversight of Vermont nurse education programs.
- (b) Committee authority is advisory. In the main, committees study issues, report to the Board, and recommend appropriate courses of action. A committee may exercise binding administrative discretion only if authorized in respect to a specific question or responsibility put to the committee by vote of the Board duly recorded in the Board's minutes.
- (c) At least biennially, each committee shall propose a charter to be reviewed and approved by the Board.

Part 3	Procedures
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3-1 Applications. Online license applications must be completed through the Office website.

- (a) Incomplete applications will not be processed. Applications are complete only when all required questions have been answered fully, all attestations made, all required documentation and materials provided, and all fees paid.
- (b) When the Board, or the Office on the Board's behalf, intends to deny an application, notice stating the reasons for the action shall be given to the applicant by certified mail, whereupon the applicant shall have 30 days to petition for a hearing before the Board. 3 V.S.A. 129(e)(1).
- (c) The Board may refuse to accept any application found to be redundant with a denied or in-process application.
- (d) The Board may deem expired any application that is left incomplete for six months.
- (e) For good cause, the Board may require that any applicant for licensure or relicensure obtain, from an approved, qualified professional, an independent assessment of the applicant's current mental, physical, and professional fitness to practice.

3-2 Complaints. Complaints against licensees, applicants for licensure, or persons practicing without a license may be submitted through the Office website.

3-3 Contested Cases. Procedures in contested cases relating to licensure or discipline are governed by the Office of Professional Regulation Administrative Rules of Practice, CVR 04-030-005, as those rules may from time to time be modified.

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3-4 Declaratory Rulings. Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Board or Office may be made pursuant to 3 V.S.A. § 808 and Office procedure.

3-5 Reasonable Accommodation. The Board complies with applicable provisions of the Americans with Disabilities Act. See the Office website for policies and procedures.

3-6 Conflict of Standards. Where a standard of unprofessional conduct set forth in statute conflicts with a standard set forth in rule, the standard that is most protective of the public shall govern. See 3 V.S.A. § 129a(e).

3-7 Determination of Equivalency. Where the Board or Director is permitted by law or rule to accept certain training or experience on the basis of equivalence to a fixed standard, it is the burden of the applicant or licensee to establish equivalence to the Board or Director's satisfaction, by producing credible, clear, and convincing evidence of the same. The Board and the Office have no obligation to research the bona fides of any institution, program, course, degree, certification, practicum, fellowship, or examination.

3-8 Waiver or Variance. The Board will not grant routine waivers or variances from any provisions of these rules without amending the rules. See 3 V.S.A. § 845. Where, in extraordinary circumstances, application of a rule would result in manifest unfairness, an absurd result, unjustifiable inefficiency, or an outcome otherwise inimical to the public health, safety, and welfare, the Board may, upon written request of an interested party, so find, grant a waiver with or without particular conditions and limitations, and record the action and justification in a written memorandum. This rule shall not be construed as creating any administrative hearing right or cause of action.

Part 4 Licensure Generally

4-1 Applicants from Other States: Fast Track Endorsement. An applicant with three or more years of full-time licensed practice, as an LNA, LPN, RN, or APRN, in good standing, in a U.S. jurisdiction outside Vermont, may qualify for expedited licensure in Vermont. See 3 V.S.A. § 136a. An RN or LPN who holds an active multistate license from another Compact State is not required to obtain a Vermont license unless changing primary state of residence to Vermont.

4-2 Applicants Educated Outside the United States

(a) **Canadian Nursing Education.** An applicant whose nursing education and initial license to practice was in Canada, who has been duly licensed by a provincial licensing authority, who has passed an acceptable examination and maintained provincial licensure in good standing, may apply for licensure by endorsement. Acceptable examinations are the NCLEX and, for a person licensed prior to December 31, 2015, the Canadian Nurses' Association Testing Service Examination. Applicants who have not completed an acceptable examination must take the NCLEX and should apply by examination as set out in Rule 6-1, for LPNs, or Rule 7-1, for RNs. Endorsement applications must include:

- (1) if the nursing education program or licensing exam was not conducted in English, acceptable evidence of oral and written English-language proficiency;
- (2) documentation of:
 - (a) 50 days (400 hours) of practice as a nurse in the two years immediately preceding the application;

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- (b) 120 days (960 hours) practice as a nurse within five years of the application;
 - (c) 20 hours of qualifying continuing education in the two years immediately preceding license application; or
 - (d) a current nationally recognized certification, and
- (3) A completed federal criminal background check.
- (b) **Other Non-U.S. Nursing Education.** An applicant whose nursing education and initial license to practice was in a country other than the United States or Canada shall be authorized to take a licensing examination once the Board has received English-language documentation including:
- (1) a completed application for licensure;
 - (2) a completed federal criminal background check;
 - (3) a credentials review by an external agency that specializes in international academic credentials review which verifies that the applicant's nursing education meets the requirements of these rules;
 - (4) satisfactory evidence of eligibility to work lawfully in the United States, to include a social security number or taxpayer identification number;
 - (5) proof of oral and written English proficiency, if the nursing education program was not conducted in English; and
 - (6) documentation of a minimum of:
 - (a) 50 days (400 hours) of practice as a nurse in the two years immediately preceding the application;
 - (b) 120 days (960 hours) practice as a nurse within five years of the application;
 - (c) 20 hours of qualifying continuing education in the two years immediately preceding license application; or
 - (d) active, nationally recognized certification.

4-3 Biennial Licensing Period. Licenses are valid for fixed, two-year periods. Expiration dates are printed on licenses. A license expires if not renewed by midnight on the date of expiry. Practice under an expired license is prohibited. A search tool on the Office website may be considered a primary source verification as to license status and expiration.

4-4 Initial License Issuance. An applicant issued an initial license within 90 days of the end of a licensing period will not be required to renew or pay the renewal fee. The license will be issued through the next full licensure period.

4-5 Provisional Licensure. The Board is authorized to issue provisional licenses to certain applicants who have met other licensure requirements but whose eligibility for licensure is contingent upon acceptable verification of licensure from another jurisdiction or the results of a required criminal background check. *See* 3 V.S.A. § 130.

4-6 Telehealth Registration and Licensure. Effective July 1, 2023, a licensee who is not otherwise licensed in Vermont but is licensed in another US jurisdiction and wishes to provide telehealth care services to a patient or client located in Vermont shall obtain a telehealth registration or license in accordance with 26 V.S.A. chapter 56. RNs and LPNs who hold an active multistate license from a Compact state are not required to obtain Vermont licensure to provide telehealth services.

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4-7 License Renewal. Online license renewal applications must be completed through the Office website. The Office transmits email reminders to licensees at the end of each biennial licensing period; however, non-receipt of such reminders shall not excuse a licensee from the obligation to maintain continuous licensure or the consequences of failing to do so. Practicing while a license is lapsed is a violation of 3 V.S.A. § 127.

4-8 Requirements of Renewal.

(a) **RNs & LPNs** shall:

- (1) Have practiced for a minimum of 50 days (400 hours) in the two years preceding application or 120 days (960 hours) in the five years preceding application; or
- (2) Have completed 20 hours of qualifying continuing education in the two years immediately preceding the application; or
- (3) Hold a current nationally recognized certification.

(b) **LNAs** shall demonstrate, via job description or other appropriate employer verification, at least 50 days (400 hours), in the two years preceding application, of employment as a nurse assistant or in a role, regardless of title or obligation to hold a license, that would reasonably tend to reinforce the training and skills of a licensed nurse assistant. *See* 26 V.S.A. § 1645.

- (1) A licensee who does not meet the active practice requirement shall repeat the nursing assistant education program and competency examination.

(c) **MNAs** shall:

- (1) Have satisfied LNA renewal requirements;
- (2) Have completed 4 hours qualifying continuing education specific to medication administration; and
- (3) Have dedicated at least 25% of the qualifying LNA experience (100 hours) to MNA functions.

(d) **APRNs** shall:

- (1) Have satisfied RN renewal requirements;
- (2) Have practiced in an APRN role for a minimum of 50 days (400 hours) in the two years preceding application or 120 days (960 hours) in the five years preceding application;
- (3) Present current certification by a national APRN certifying organization; and
- (4) If required, have a current collaborating provider agreement.

4-9 Late Renewal Penalties. Late renewal applications are subject to penalty fees, which may be waived in certain circumstances, for example, if the applicant did not practice in Vermont during the period of lapse. *See* 3 V.S.A. § 127(d). Reinstatement waivers may be requested through the online licensing system.

4-10 Requirements of Reinstatement; Extended License Lapse. A license expired for more than two years requires reinstatement, including a federal criminal background check.

- (a) **Two to five years.** A license expired for two to five years may be reinstated upon proof of continuous practice elsewhere, or if practice ceased, upon satisfaction of the requirements of renewal set out in Rule 4-8.
- (b) **More than five years.** A license expired for five or more years may be reinstated upon proof of continuous practice elsewhere, or if practice ceased, a licensee's preparation to

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return to practice will be assessed on a case-by-case basis. After consultation with the Board, the Director may require re-training, testing, or re-application. *See* 3 V.S.A. § 135. In most circumstances, completion of an approved nursing re-entry program is a minimum prerequisite to reinstatement.

- (c) **Enhanced APRN requirements.** This rule, 4-10, will yield to enhanced requirements for APRN practice refreshment and license reinstatement set out in Part 9, *infra*.

Part 5 Vermont Nursing Education Programs

5-1 Approval Required. No person, including a corporation, association, or individual may conduct a nursing education program in Vermont, other than an online-only program approved by the Vermont Agency of Education, unless the program has been approved by the Board. *See* 26 V.S.A. § 1584.

5-2 Accreditation Required. Nursing education programs shall be accredited by the Commission on Collegiate Nursing Education (CCNE), the National League for Nursing's (NLN) Commission on Nursing Education Accreditation (CNEA), the Accreditation Commission for Education in Nursing (ACEN), or a national nursing accreditation organization otherwise specifically approved by the Board.

5-3 Nursing Faculty. Vermont nursing education programs shall be compliant with their accrediting agency's faculty standards regarding educational and experiential requirements for full-time and part-time nursing faculty.

5-4 Operational Oversight; Site Visits. The Board may at any time request information appropriate to confirm that a Vermont nursing education program is operating in conformity with applicable rules and accrediting standards. The Board may conduct a site visit to any proposed or existing nursing education program during the application review, during any review for extension of approval, or at any time deemed necessary to assess compliance with these rules. A nursing education program shall reimburse the Board for actual and necessary costs incurred for a site visit.

5-5 Duty to Report Site, Administrative, and Curricular Changes. A program shall copy to the Board any required report made to accrediting authorities concerning significant changes to program curriculum or structure.

5-6 Program Application. At least nine months before a program proposes to admit its first students, or within 30 days of a request from the Executive Director to an operating program, an authorized representative of the governing organization shall submit the following information or copies of submissions to or from an approved accreditor reflecting the same:

- (a) accreditation status of the governing organization;
- (b) a statement of mission and purpose;
- (c) an initiation plan for the program including curricula, policies, outcome measurements;
- (d) the identity and qualifications of the Program Administrator;
- (e) a description of faculty, including numbers and qualifications;
- (f) a chart illustrating the program's administrative and supervisory hierarchy;
- (g) evidence of the feasibility of the program and community readiness to accept and support the program;
- (h) the certificate(s) or degree(s) to be offered;

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- (i) a statement of clinical and academic facilities and resources, including classroom, conference room, library, office space, and skills laboratory;
- (j) evidence of financial resources sufficient for the planning, implementation and operation of the program;
- (k) a description of the anticipated student population; and
- (l) any other information showing that the proposed program will meet the requirements of these rules.

5-7 Preliminary Program Approval. When the Board determines that an application to commence a new program is satisfactory, as indicated by substantial progress toward compliance with prevailing accrediting standards and demonstrated ability to attain full compliance, it will issue a preliminary approval authorizing the applicant to hire faculty, enroll students, develop and implement the program, commence the use of all assigned facilities and resources, and otherwise begin operation of the program.

5-8 Full Program Approval and Reapproval. A program granted preliminary approval shall notify the Board when it graduates its first class and shall apply for full program approval by submitting such information as the Executive Director or Board may request demonstrating progress toward full accreditation. The Board may condition full program approval upon accreditation.

5-9 Application Denial. If a program's preliminary application, full-program application, or application for re-approval is found to be deficient, the Board will offer a reasonable opportunity, not to exceed two years, for the program to cure the deficiency before acting on the application. The process for denial of an application is set out at 3 V.S.A. § 129(e).

5-10 Annual Reports. Approved programs shall submit annual reports on forms available from the Board. Each annual report shall be submitted no later than October 1 and cover the period between August 1 of the preceding year and July 31 of the year the report is submitted. Annual reports to include any new sites or site changes, administrative changes affecting the program, and significant curricular changes, to include changes in, duration, structure, graduation requirements, or core curricular content. Programs shall cooperate with reasonable requests for supplemental information.

5-11 Forms of Approval. An operating program shall apply for reapproval as determined by the duration of its prior approval, which may be set by the Board but will not in any event exceed the duration of the program's national accreditation. Approvals may be conditioned as appropriate to protect the public health, safety, and welfare, or to ensure ongoing ability to conform to prevailing accrediting standards.

5-12 Intervention for Cause. If the Board or Executive Director reasonably suspects a program is at risk of falling out of substantial compliance with prevailing accrediting standards, either may require that a program undergo a site visit, apply for reapproval early, or otherwise show cause why its approval should not be conditioned or withdrawn. The Board will give written notice to any program considered for withdrawal of approval and will afford program administrators a reasonable opportunity to be heard before acting upon a motion to terminate or condition a program's approval.

5-13 Voluntary Program Closure. The governing organization shall advise the Board of a decision to close its program. All Board approval requirements shall be maintained until the last student has

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transferred or graduated. The governing organization shall notify the Board where permanent program and student records are stored and how they may be retrieved. The program shall:

- (a) discontinue student admissions;
- (b) assist accepted applicants and current students to transfer to other approved programs; and
- (c) officially close when the last student has graduated.

5-14 Practical Nurse Program: Duration. An acceptable practical nurse curriculum shall require no less than one academic year to complete.

5-15 Practical Nurse Program: Curriculum. In accordance with the standards of a program's accrediting agency, practical nursing programs shall include clinical and theory hours sufficient to establish competency in Adult Nursing, Maternal/Infant Nursing, Pediatric Nursing, and Psychiatric/Mental Health Nursing.

- (a) Didactic content will include Anatomy and Physiology, Social/Behavioral Science, Pharmacology and Nutrition
- (b) Nursing education programs shall include clinical experience in state approved facilities. Clinical experiences must provide an opportunity for direct care in the promotion, prevention, restoration and maintenance of health in clients across the life span in a variety of settings. No more than 25% of clinical experience may be obtained in a medium- or high-fidelity simulation learning laboratory without prior Board approval or the approval of the program accrediting agency.

5-16 Practical Nurse Re-Entry Programs. The Board will approve, for a presumptive period of five years, a re-entry program that:

- (a) has a written purpose, program and unit objectives, and measurable outcomes;
- (b) includes at least 80 hours of theory and 80 hours of clinical experience;
- (c) provides direct RN supervision for re-entry program clinical experience; and
- (d) is located within, or if individually designed, is under the direction of, a program providing nursing education.

5-17 Registered Nurse Program Curriculum. In accordance with a program's accreditation agency standards, a registered nursing program will provide a sound foundation in biological, physical, social and behavioral sciences and include:

- (a) Didactic content including prevention of illness and the promotion, restoration and maintenance of health in patients across the lifespan and from diverse cultural, ethnic, social and economic backgrounds.
- (b) Didactic and clinical experiences shall include clinical and theory hours sufficient to establish competency in Medical/ Surgical, Obstetrics, Pediatrics, Psychiatric/ Mental Health and Community Health.
- (c) No more than 25% of clinical experience may be obtained in a medium- or high-fidelity simulation learning laboratory without prior Board approval or the approval of the program's accrediting agency.
- (d) Clinical experiences shall be supervised and occur directly with patients. Clinical experiences and simulation shall include a variety of clinical settings sufficient for meeting program outcomes.

5-18 RN Re-entry Program Design.

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- (a) Re-entry programs may be individually designed or established by a nursing education program or a nursing service facility. Re-entry programs must be approved by the Board. Program approval is valid for five years unless otherwise specified.
- (b) The Board will approve a re-entry program which meets the following requirements:
 - (1) The re-entry program has a written purpose, program and unit objectives, and measurable outcomes;
 - (2) consists of a minimum of 120 hours of theory and a minimum of 120 hours of clinical experience;
 - (3) provides direct RN supervision for re-entry program clinical experience; and
 - (4) is located within, or if individually designed, is under the direction of a program providing nursing education.

5-19 APRN Refresher Course.

- (a) Individuals who have been out of practice for less than five years and who do not meet the practice requirement for initial licensure, or renewal, or reinstatement of an APRN license must take a refresher course as set forth in parts 9-16 through 9-18 of these Rules. Once commenced, the course must be completed within 18 months.
- (b) Individuals who have been out of practice for more than five and fewer than ten years may be assigned a case-specific refresher assignment approved by the Board.
- (c) Individuals who have been out of practice for more than ten years must complete a new post-masters APRN program that includes a minimum of 500 clinical practice hours.

5-20 Refresher Course Clinical Practice Permit.

The Board may grant a refresher course clinical practice permit, valid in six month increments and renewable not more than twice, to an applicant who:

- (a) holds a Vermont RN license; and
- (b) holds a national APRN certification.

A person practicing under a permit shall be conspicuously identified as an “APRN Applicant” on name badges, signature blocks, medical record entries, and other locations calling for a professional designation.

5-21 APRN Refresher Course Design.

- (a) Refresher programs may be individually designed or established by a nursing education program or a non-accredited nursing service facility. Each must be approved by the Board.
- (b) The Board may accept a Nationally Accredited Refresher Program in Vermont or elsewhere which meets the requirements of Parts 9-17 and 9-18 of these rules.
- (c) Refresher programs are available to APRN’s who have been out of practice for ten years or less.

5-22 APRN Refresher Course Approval Criteria. The Board may approve a refresher program that provides on-site supervision by an APRN collaborating provider qualified under Part 9 of these rules who holds an unencumbered Vermont license, or a physician collaborating provider who holds an unencumbered Vermont license. A supervising provider must practice in the same role and population focus. Minimum course hours are:

- (a) for a licensee who has been out of practice for less than five years consists of a minimum of:
 - (1) 150 hours of theory; and
 - (2) 200 hours of clinical experience; or
- (b) for a licensee who has been out of practice for more than five years, but less than ten years consists of a minimum of:
 - (1) 150 hours of theory and

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(2) 400 hours of clinical experience.

5-23 APRN Refresher Program Curricula. Curricula must include a review and update of:

- (a) advanced pharmacotherapeutics;
- (b) advanced assessment;
- (c) role and population specific theory and practice standards;
- (d) role and population specific clinical practicum; and
- (e) advanced practice nursing skills.

Part 6 Licensed Practical Nurses

6-1 Licensure by Examination. To qualify for licensure by examination, an applicant shall:

- (a) be a graduate of an approved LPN education program, as verified by an official transcript;
- (b) complete a federal criminal background check;
- (c) receive Board approval to sit for the NCLEX-PN examination; and
- (d) pass the NCLEX-PN examination within five years of nursing program graduation.

6-2 Licensure by Endorsement. To qualify for licensure by endorsement, based on licensure and experience outside Vermont, an applicant who is not eligible for expedited endorsement under Rule 4-1 shall:

- (a) be licensed in a United States jurisdiction with licensing requirements substantially equivalent to those of Vermont, on the basis of a U.S. nursing education program;
- (b) complete a federal criminal background check; and
- (c) demonstrate ongoing competency to practice in the form of:
 - (1) active practice in the jurisdiction of origin totaling at least 50 days (400 hours) in the previous 2 years or 120 days (960 hours) in the previous 5 years, verified by appropriately certified employment records; or
 - (2) satisfactory completion of 20 hours of qualifying continuing education in the two years immediately preceding application; or
 - (3) current, nationally recognized certification.

6-3 Scope of Practice. Refer to Part 11-1. Consistent with 26 V.S.A. § 1572, an LPN's scope of practice is directed by a licensed RN, APRN, MD, DO, physician assistant, or dentist acting within his or her own scope of practice. Direction may occur via direct supervision or through provider orders, forms, guidelines, policies or procedures, protocols, algorithms, or clearly established plans of care.

(a) The LPN, practicing to the extent of their education and training under the supervision of an RN, advanced practice registered nurse (APRN), physician or other authorized licensed health care provider:

- (1) Participates in nursing care, health maintenance, patient teaching, counseling, collaborative planning and rehabilitation.
- (2) Plans for patient care, including:
 - (i) Planning nursing care for a patient whose condition is stable or predictable.
 - (ii) Assisting the RN, APRN, or physician in identification of patient needs and goals.
 - (iii) Determining priorities of care together with the RN, APRN or physician.

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- (3) Provides patient surveillance and monitoring, participating with other health care providers and contributing to the development, modification, and implementation of the patient centered healthcare plan.
- (4) Implements nursing interventions and prescribed medical regimens in a timely and safe manner.
- (5) Documents nursing care provided accurately and timely.
- (6) Collaborates and communicates relevant and timely patient information with patients and other health team members to ensure quality and continuity of care, including:
 - (i) Patient status and progress.
 - (ii) Patient response or lack of response to therapies.
 - (iii) Changes in patient condition.
 - (iv) Patient needs and special requests.
- (7) Takes preventive measures to promote an environment that is conducive to safety and health for patients, others and self.
- (8) Respects patient diversity and advocates for the patient's rights, concerns, decisions and dignity.
- (9) Maintains appropriate professional boundaries.
- (10) Participates in systems, clinical practice and patient care performance improvement efforts to improve patient outcomes.
- (11) Assigns and delegates nursing activities to assistive personnel. The LPN shall delegate only those nursing measures the delegate has the training, education, and experience to accomplish safely.

6-4 Individual Scope. The individual scope of practice for each LPN is determined by the individual's education, training, experience, and certification. Each LPN has a responsibility to practice in a manner that protects and promotes the health, safety and rights of the patient. Each nursing activity must be consistent with reasonable and prudent practice. Refer to Part 11-1 of these Rules.

Part 7 Registered Nurses

7-1 Licensure by Examination. To qualify for licensure by examination, an applicant shall:

- (a) be a graduate of an approved RN education program, as verified by an official transcript;
- (b) complete a federal criminal background check;
- (c) receive Board approval to sit for the NCLEX-RN examination; and
- (d) pass the NCLEX-RN examination within five years of nursing program graduation.

7-2 Licensure by Endorsement. To qualify for licensure by endorsement, based on licensure and experience outside Vermont, an applicant who is not eligible for expedited endorsement under Rule 4-1 shall:

- (a) be licensed as an RN in a United States jurisdiction with licensing requirements substantially equivalent to those of Vermont, on the basis of a U.S. nursing education program;
- (b) complete a federal criminal background check; and
- (c) demonstrate ongoing competency to practice in the form of:
 - (1) active practice in the jurisdiction of origin totaling at least 50 days (400 hours) in the previous 2 years or 120 days (960 hours) in the previous 5 years, verified by appropriately certified employment records; or

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- (2) satisfactory completion of 20 hours of qualifying continuing education in the two years immediately preceding application; or
- (3) current, nationally recognized practice-area certification.

7-3 Scope of Practice. "Registered nursing" means the practice of nursing as defined at 26 V.S.A. § 1572.

7-4 Individual Scope. The individual scope of practice for each RN is determined by the individual's education, training, experience, and certification. Each RN has a responsibility to practice in a manner that protects and promotes the health, safety and rights of the patient. Each nursing activity must be consistent with reasonable and prudent practice. Refer to part 11-1 of these Rules

Part 8 Interstate Practice Privileges for RNs and LPNs: The Nurse Licensure Compact

8-1 Applicant Responsibilities.

- (a) An applicant for a multistate license shall declare Vermont as primary state of residence.
- (b) A nurse who changes primary state of residence to another party state shall apply for a license in the new party state when the nurse declares to be a resident of the state and obtains multistate privileges not ordinarily extended to nonresidents of the state.
- (c) A nurse shall not apply for a Vermont single state license while the nurse holds a multistate license in another party state.
- (d) An applicant must provide evidence of residence in Vermont. This evidence may include, but is not limited to, a current:
 - (1) driver's license with a home address;
 - (2) voter registration card with a home address;
 - (3) federal income tax return with a primary state of residence declaration;
 - (4) military form no. 2058 (state of legal residence certificate); or
 - (5) W2 form from the United States government or any bureau, division, or agency thereof, indicating residence.
- (e) An applicant who is a citizen of a foreign country, and who is lawfully present in the United States and is applying for multistate licensure in Vermont may declare either the applicant's country of origin or Vermont as the primary state of residence.
- (f) If the applicant declares the foreign country as the primary state of residence, they are not eligible for a multistate license, but may apply for a single state license if the applicant meets licensure requirements.
- (g) An applicant shall disclose current participation in an alternative program to any party state, whether upon initial application or within ten (10) calendar days of enrollment in the program.

8-2 Change in Primary State of Residence.

- (a) A nurse who changes his or her primary state of residence from one party state to another party state may continue to practice under the existing multistate license while the nurse's application is processed, and a multistate license is issued in the new primary state of residence.
- (b) Upon issuance of a new multistate license in another party state, the Vermont multistate license will be deactivated/expired.
- (c) If a party state verifies that a licensee who holds a multistate license changes primary state of residence to a non-party state, the party state shall convert the multistate license to a

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single state license within fifteen (15) calendar days and report this conversion to the Coordinated Licensure Information System.

8-3 Temporary Permits and Licenses. A temporary permit, license, or similar temporary authorization to practice issued by a party state to an applicant for licensure shall not grant multistate licensure privileges.

8-4 Identification of Licenses. A license issued by a party state shall be clearly identified as either a single state license or a multistate license.

8-5 Credentialing and English Proficiency for Foreign Nurse Graduates.

- (a) A party state shall verify that an independent credentials review agency evaluated the credentials of graduates.
- (b) The party state shall verify successful completion of an English proficiency examination for graduates.

8-6 Deactivation, Discipline, and Revocation.

- (a) The Board of Nursing shall determine whether a disqualifying event will result in adverse action or deactivation of a multistate license or privilege.
- (b) Upon deactivation due to a disqualifying event, the Board may issue a single state license.

8-7 Federal Criminal Records. Communication between Vermont and the Nurse Licensure Compact Commission and communication between party states regarding verification of the nurse's eligibility for licensure pursuant to the Compact shall not include any Criminal History Record Information (CHRI) received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member board under Public Law 92-544.

8-8 Active-duty Military Personnel and Spouses.

- (a) An active-duty service member, or the member's spouse, shall designate a home state where the service member or spouse has a current license in good standing.
- (b) The service member may retain the home state designation during the period the service member or spouse is on active duty.
- (c) After designating a home state, the service member or spouse shall only change home state through application for licensure in the new state.

Part 9 Advanced Practice Registered Nurses

9-1 APRN License Requirements

To be eligible for licensure as an APRN the applicant must:

- (a) hold an unencumbered Vermont registered nursing license or an unencumbered multistate registered nursing license from another Compact state;
- (b) meet the education requirements set forth below;
- (c) hold certification from a national board;
- (d) complete a federal criminal background check; and
- (e) meet the practice requirements.

9-2 Roles. The Board may license an individual to practice as an APRN in the following roles:

- (a) Certified Nurse Practitioner;
- (b) Certified Nurse Midwife;
- (c) Certified Registered Nurse Anesthetist; and

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(d) Clinical Nurse Specialist.

9-3 Identification. APRNs shall use, at a minimum, the license designation “APRN” for purposes of identification and documentation.

9-4 Population Focus. Population Focus means that segment of the population, defined by age group or health status to which an APRN provides professional services. Each licensee is assigned a population focus area based on the licensee’s certification. Refer to the Board Website for recognized population focus areas.

9-5 Education

To be eligible for an APRN license, an applicant shall:

- (a) have a degree or certificate as shown by the official transcripts from the applicant’s graduate nursing program in one of the four recognized APRN roles from:
 - (1) a Vermont graduate nursing program approved by the Board; or
 - (2) a United States graduate nursing program approved by a state or a national accrediting agency approved by the Board; and
- (b) have successfully completed graduate level courses in:
 - (1) advanced pharmacotherapeutics;
 - (2) advanced patient assessment; and
 - (3) advanced pathophysiology.

9-6 APRN Certification Organizations

The Board may accept certification by a certifying organization which:

- (a) follows established certification testing and psychometrically sound, legally defensible standards for APRN certification exams;
- (b) assesses APRN core and role competencies across a minimum of one population focus of practice;
- (c) assesses specialty competencies, when applicable, separately from the APRN core role and population-focused competencies; and
- (d) is accredited by a national U.S. or Canadian certification accreditation body.

9-7 Education and Practice Requirement. To be eligible for initial licensure or to renew or reinstate an APRN license, an applicant must have

- (a) For initial licensure and renewals,
 - (1) Graduated from an APRN program within two years of making the application; or
 - (2) Practiced as a licensed APRN for a minimum of:
 - i. 50 days (400 hours) in the previous two years; or
 - ii. 120 days (960 hours) in the previous five years; and
 - (3) Maintained certification by a national certification accreditation body; or
- (b) For reinstatement, completed a Board approved APRN Refresher Course as set forth in 9-14 through 9-17 of these Rules within two (2) years of making the application.

9-8 Transition to Practice: Collaborative Provider Agreement. An APRN with fewer than 24 months and 2,400 hours of licensed active advanced nursing practice in an initial role and population focus or fewer than 12 months and 1,600 hours for any additional role and population focus shall have a formal agreement with a collaborating provider as required by 26 VSA § 1613 and these Rules:

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- (a) An APRN shall maintain signed and dated copies of all collaborative provider agreements, and when the transition to practice is complete, shall retain a copy of the Board form attesting to completion of the transition to practice.
- (b) An APRN required to practice under a collaborative provider agreement may not practice in a setting where there are no additional APRNs or licensed physicians to provide mentoring, consultation or advisement.

9-9 Collaborating Providers. A collaborating provider may be a Vermont APRN, a medical doctor licensed under 26 V.S.A. Ch. 23, or an osteopathic physician licensed under 26 V.S.A. § Ch. 33. An APRN may have more than one collaborating provider. A collaborating provider must be actively licensed in good standing and possess at least four years of practice experience in the same role and population focus or specialty as the APRN.

9-10 Collaborating Provider Responsibilities

A collaborating provider shall establish a written agreement with an APRN to serve as an advisor, mentor, and consultant. A collaborating provider shall participate in quality assurance activities.

9-11 APRN Group Practice. An APRN group practice must include one or more APRNs who are not required to practice under a collaborative provider agreement.

9-12 APRN Refresher Course

- (a) Individuals who have been out of practice for less than five years and who do not meet the practice requirement for initial licensure, or renewal, or reinstatement of an APRN license must take a refresher course as set forth in parts 9-16 through 9-18 of these Rules. Once commenced, the course must be completed within 18 months.
- (b) Individuals who have been out of practice for more than five and fewer than ten years may be assigned a case-specific refresher assignment approved by the Board;
- (c) Individuals who have been out of practice for more than ten years must complete a new post-masters APRN program that includes a minimum of 500 clinical practice hours.

9-13 Refresher Course Clinical Practice Permit. The Board may grant a refresher course clinical practice permit, valid in six month increments and renewable not more than twice, to an applicant who:

- (a) holds a Vermont RN license;
- (b) holds a national APRN certification.

A person practicing under a permit shall be conspicuously identified as an "APRN Applicant" on name badges, signature blocks, medical record entries, and other locations calling for a professional designation.

9- 14 APRN Refresher Course Design

- (a) Refresher programs may be individually designed or established by a nursing education program or a non-accredited nursing service facility. Each must be approved by the Board.
- (b) The Board may accept a Nationally Accredited Refresher Program in Vermont or elsewhere which meets the requirements of Parts 9-17 and 9-18 of these rules.
- (c) Refresher programs are available to APRNs who have been out of practice for ten years or less.

9-15 APRN Refresher Course Approval Criteria

The Board will approve a refresher program which:

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- (a) for a licensee who has been out of practice for less than five years consists of a minimum of:
 - (1) 150 hours of theory; and
 - (2) 200 hours of clinical experience; or
- (b) for a licensee who has been out of practice for more than five years, but less than ten years consists of a minimum of:
 - (1) 150 hours of theory and
 - (2) 400 hours of clinical experience; and
- (c) which provides on-site supervision:
 - (1) by an APRN collaborating provider qualified under Part 9 of these rules holding a Vermont unencumbered APRN license, or a physician collaborating provider with a Vermont unencumbered license; and
 - (2) who practices in the same role and population focus.

9- 16 APRN Refresher Program Curricula. Curricula must include a review and update of:

- (a) advanced pharmacotherapeutics;
- (b) advanced assessment;
- (c) role and population specific theory and practice standards;
- (d) role and population specific clinical practicum; and
- (e) advanced practice nursing skills.

9-17 Scope of Practice

- (a) The individual scope of practice for each APRN is determined by the APRN's education, training, experience, role, population focus, and national certification, consistent with Rule 11-1.
- (b) Nurse practitioners providing primary care may be primary care providers of record.
- (c) The scope of an APRN includes:
 - (1) registered nurse scope of practice;
 - (2) acts of medical diagnosis including, ordering, and interpreting diagnostic tests and procedures;
 - (3) prescribing medications;
 - (4) prescribing medical, therapeutic, or corrective measures;
 - (5) initiating written or verbal orders to other health care providers; and
 - (6) managing and evaluating care.

9-18 Eligible Colleges or Universities

The Board will approve a Vermont APRN education program which:

- (a) is offered by a college or university;
- (b) confers a graduate degree with a major in nursing or a graduate degree that prepares nurses to practice advanced practice nursing; and
- (c) meets the educational standards set by a national accrediting body and national certifying board approved by the Board.

9-19 Approval Process To obtain and maintain Board approval, an APRN education program must follow the processes outlined in Part 5 of these Rules.

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10-1 Licensure by Examination. To qualify for licensure by examination, an applicant shall:

- (a) have completed, within two years of application, a nursing assistant education program approved by the Department of Disabilities, Aging, and Independent Living or its equivalent in another U.S. jurisdiction, or be a student in an RN or LPN education program who has completed studies equivalent thereto;
- (b) complete a federal criminal background check; and
- (c) pass a competency examination approved by the Department of Disabilities, Aging, and Independent Living or an equivalent exam acceptable to the Board.

10-2 Examination Attempts. A candidate who has not passed LNA exams after three attempts must repeat an approved nursing assistant education program.

10-3 Licensure by Endorsement. To qualify for licensure by endorsement, based on licensure and experience outside Vermont, an applicant who is not eligible for expedited endorsement under Rule 4-1 shall:

- (a) be licensed or certified as nursing assistant by another state;
- (b) complete a federal criminal background check; and
- (c) demonstrate, via job description or other appropriate employer verification, at least 50 days (400 hours), in the two years preceding application, of employment as a nurse assistant or in a role, regardless of title or obligation to hold a license, that would reasonably tend to reinforce the training and skills of a licensed nurse assistant.

10-4 Scope of Practice

(a) An LNA's scope of practice includes:

- (1) Basic Nursing Care;
- (2) Personal Care;
- (3) Basic Restorative Care;
- (4) Psychosocial Support;
- (5) Care of the Cognitively Impaired;
- (6) Communication; and
- (7) Patient Safety.

(b) Additional tasks and skills may be performed by LNAs through the delegation process by APRNs, RNs and LPNs as described in section 11.2

(c) An LNA may not perform activities which exceed the scope defined by the level of licensure. This means that LNAs may not perform, even if directed to do so, an activity not appropriate to their level of licensure or otherwise prohibited by law. Examples of activities not within the LNA scope of practice include nursing assessments, nursing judgments, and development of the plan of care.

Subpart A Medication Nursing Assistants

10-5 Definition: A medication nursing assistant (MNA) is a licensed nursing assistant authorized by a specialty designation to administer medications in limited settings set out by 26 V.S.A. § 1641.

10-6 Eligibility for MNA Specialty Designation. To be eligible for the MNA specialty designation, an applicant must:

- (a) hold an unencumbered Vermont LNA license;
- (b) be at least 18 years of age;
- (c) have a high school diploma or G.E.D.;

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- (d) have two years' experience consisting of no fewer than 4,000 hours of LNA experience, of which at least one year and 2,000 hours were acquired in a long-term care nursing facility;
- (e) complete, within the year preceding application, an MNA training program approved by the Board; and
- (f) successfully complete MNA competency and math proficiency examinations approved by the Board.

10-7 Nursing Student Eligibility. The experience and training requirements set out in subparts 10-6(d) & (e) may be waived for a student enrolled in a Board-approved RN or LPN program that has covered MNA training content.

10-8 Training from Other Jurisdictions. The Board may issue an MNA specialty designation to a Vermont LNA who received MNA training found by the Board to be substantially equivalent to that of a Board-approved training program. The applicant must successfully complete MNA competency and math proficiency examinations approved by the Board.

10-9 Scope of Practice.

- (a) An MNA is supervised on-site, on the unit, by an LPN, RN, or APRN.
- (b) A medication nursing assistant upon delegation by an LPN, RN, or APRN may:
 - a. administer medications to individual residents; and
 - b. administer medication via oral, sublingual, buccal, inhalation, spray (on oral mucosa), topical, nasal, ocular, optic, and suppository (vaginal or rectal) route.

10-10 Limitations. An MNA may:

- (a) administer medications to a newly admitted resident only after the delegating nurse determines that the resident is stable, and then only according to facility policy; and
- (b) administer prn medication only after an RN assessment confirms the need for the medication.

10-11 Exclusions. An MNA may not:

- (a) administer injectable medications.
- (b) administer medications new to the patient;
- (c) make adjustments to dosage;
- (d) take or transcribe orders;
- (e) apply medicated dressings;
- (f) administer insulin;
- (g) administer bladder instillations;
- (h) calculate conversions;
- (i) dispose of medications; or
- (j) administer enteral feedings or medications.

Subpart B MNA Training Programs

10-12 Board Approval Required. Before providing MNA training, an MNA program must receive Board approval. The process for receiving Board approval is set forth in Part 5 of these rules. The Board will approve a program which assures that participants are trained in:

- (a) communication and documentation;
- (b) ethical and legal responsibilities regarding medication administration;

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- (c) medication use, side effects, abbreviations, look alike drugs, drug interactions, proper storage, and the need for reporting side effects;
- (d) apothecary and metric measurements;
- (e) patient safety principles regarding proper medication administration; and
- (f) facility policies regarding medication errors.

10-13 MNA Training Program Requirements. To receive Board approval each MNA training program must:

- (a) employ a standardized textbook approved by the Board;
- (b) require no fewer than 60 hours of class instruction including lab/simulation instruction; and 40 hours of supervised clinical instruction;
- (c) have instructors who:
 - (1) possess unencumbered Vermont RN licenses;
 - (2) have at least 2 years' full-time practice experience, of which one year was in clinical practice; and
 - (3) hold a baccalaureate or higher degree in nursing; and
- (d) have a program administrator who holds a baccalaureate or higher degree in nursing.

10-14 MNA Program Review. An annual report shall be submitted to the Board by each MNA program as per Rule 5-9 of these rules and site visits to MNA programs may be conducted by the Board in accordance with Rule 5-3 of these rules.

Part 11	Standards of Nursing Practice
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11-1 Determination of Scope of Practice. An activity not prohibited by Vermont Administrative Rules or Statutes and that is consistent with current national professional nursing organizational standards, accreditation standards and or credible nursing research may be considered within an individual nurse's scope of practice if the following conditions are met:

- (a) the nurse has completed the necessary education and possesses adequate knowledge to perform the activity;
- (b) there is evidence of the nurse's current competency and skill;
- (c) a reasonable and prudent nurse with similar training and experience would perform the activity;
- (d) there are institutional policies and /or procedures in place governing the activity, and the activity is consistent with those;
- (e) There are adequate resources, equipment and supports in the care setting to ensure patient safety; and
- (f) The nurse is prepared to accept and manage the consequences of performing the activity.

In the absence of any of the above, the activity would be considered out of scope for an individual nurse and should not be performed. A nurse may not perform, even if directed to do so, an activity not recognized by the profession as appropriate for that level of licensure or otherwise prohibited by law.

11-2 Delegation. A licensee shall not delegate tasks to a person the licensee knows, or has reason to know, is not qualified by training, experience, education, or licensing credentials to perform them. *See* 3 V.S.A. § 129a(a)(6). Decision-making regarding the delegation of nursing care must be focused on the protection of the health, safety, and well-being of the patient/client.

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- (a) **Non-delegable functions.** An APRN or RN may never delegate the exercise of nursing judgment, including patient assessment, care planning, and evaluation of care, to a licensee whose scope of practice does not include those functions.
- (b) **Factors.** A nurse delegating tasks shall consider the Five Rights set out in the National Guidelines for Nursing Delegation:
 - (1) **Right task:** the activity must be within the delegate's job description and consistent with written policies and procedures;
 - (2) **Right circumstance:** the patient's condition must be appropriately stable, and the delegating nurse must be situated to be aware of changes;
 - (3) **Right person:** the delegate must have the skills and knowledge to perform the activity;
 - (4) **Right direction and communication:** the delegate must be appropriately educated, and understanding must be confirmed by two-way communication and clear understanding and acceptance of the delegated activity; and
 - (5) **Right supervision and evaluation:** the delegating nurse must monitor the delegated activity, remain ready and available to intervene, and follow up to evaluate performance, outcomes, and accurate documentation.

11-3 Evidence-based Practice; Competent and Credible Evidence

- (a) **Duty of competence.** A licensee shall maintain awareness of evolving evidence-based practice guidelines and standards; shall implement these in nursing practice; and shall exercise the critical thinking required to meet the statutory obligation to refrain from "promoting or recommending a therapy or treatment in a manner tending to deceive the public or to suggest a degree of reliability or efficacy unsupported by competent evidence and professional judgment." 3 V.S.A. § 129a(a)(17).
- (b) **Credibility of sources.** An APRN considering a therapeutic intervention shall consider whether the therapy is reasonably indicated for the relevant diagnosis, as indicated by FDA approval or support by credible literature, meaning literature upon which a reasonable clinician competent in the prevailing practice would rely.

11-4 Fitness. A licensee shall practice as a nurse or nurse assistant only when fit to work. Fitness includes the ability to collect data, notice detail, analyze information, solve problems, and respond rapidly to hazards to patient safety or wellbeing. Fitness may be impaired by fatigue, stress, alcohol, drugs, physical impairment, medical condition, or emotional state. Nurse peers, nurse supervisors, and nursing employers share a responsibility to ensure fitness and to intervene if a licensee appears unfit.

- (a) A nurse or nurse assistant shall:
 - (1) Assure his or her ongoing wellness and fitness for work, by such means as such as getting adequate rest, seeking treatment for medical conditions, seeking counseling for emotional problems, managing stress, and avoiding substances and activities that may impair fitness for work;
 - (2) Notify the manager, supervisor, or responsible person of any concerns regarding his or her fitness for work and request appropriate accommodations, as needed;
 - (3) Refuse an assignment, if not fit to competently and safely perform the assignment; and
 - (4) Notify the individual and the manager, supervisor, or responsible person of any concerns regarding another person's fitness for work.
- (b) A nurse supervising others shall:

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- (1) Develop or enforce workplace policies and procedures regarding fitness for work;
- (2) Schedule responsibly, allowing adequate time for rest breaks during and between shifts;
- (3) Manage the work environment to promote safety and avoid fatigue and hazards;
- (4) Educate employees regarding fitness for work concepts and available supports;
- (5) Be available to observe and assess the fitness for work of employees on duty, and
- (6) if a nurse or nurse assistant appears to be unfit for work, remove the employee from the work environment until the situation has been assessed, appropriate action taken, and the employee is determined to be fit to perform their assigned work.

11-5 Patient Abandonment. A licensee shall not abandon a patient. Abandonment occurs when a licensee who has accepted a patient assignment or accepted responsibility for care of a patient jeopardizes the safety of that or other patients by improperly disengaging from the assignment or responsibility.

- (a) Examples of abandonment include, without limitation:
 - (1) Leaving the patient care area without transferring responsibility appropriately;
 - (2) Remaining unavailable for patient care for a duration that compromises patient care;
 - (3) Inattention or insufficient observation or contact with a patient;
 - (4) Sleeping while on duty outside supervisor-approved rest consistent with written facility policy;
 - (5) Failing to timely notify a supervisor or employer if unable to initiate or complete an assignment where the licensee is the sole care provider; or
 - (6) For an APRN, terminating the nurse-patient relationship without providing reasonable notification to the patient and resources for continuity of care.
- (b) The following employment acts generally do not constitute patient abandonment:
 - (1) Failing to report to work when an assignment has not been assumed or accepted;
 - (2) Refusing to accept an assignment to a unit when there has been no orientation and no educational preparation or an assignment outside the licensee's scope of practice;
 - (3) Leaving an assignment after notifying the appropriate personnel and transferring responsibility for patient care;
 - (4) Leaving an assignment due to circumstances reasonably perceived by the licensee as placing the licensee in imminent danger of serious harm;
 - (5) Refusing to work beyond a scheduled shift; or
 - (6) Resigning without giving specific notice.

11-6 Informed Consent. Each person has a right to determine what shall be done with his or her body and a right to accept or refuse medical treatment. For those determinations to be informed, the person, as patient, must be capable of making relevant decisions, based not only on personal capacity, but also upon the provision of accurate and adequate information by providers of care. If a patient lacks capacity, informed consent is to be obtained from a parent or legal guardian.

- (a) An APRN or RN may obtain a patient's informed consent for a treatment or procedure if:
 - (1) The APRN or RN will perform the treatment or procedure;
 - (2) The treatment or procedure is within the APRN or RN's scope of practice;
 - (3) The APRN or RN is able accurately to convey to the patient:
 - i. A description of the treatment or procedure;

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- ii. The indications for the treatment or procedure;
- iii. Risks and benefits of the treatment or procedure;
- iv. Alternatives and their risks and benefits;
- v. The probable consequences of declining the recommended treatment or procedure; and
- vi. Roles of others who may be involved in executing the treatment or procedure.

11-7 Duty to Update and Self-report. Applicants and licensees owe a duty of candor to the Board and shall disclose circumstances that may call for further investigation to protect the public. That a matter is reportable does not imply that the matter necessarily is a basis for discipline. A licensee, including an applicant for licensure, shall report to the Office, in writing, within 30 days:

- (a) any change of name, e-mail, or mailing address;
- (b) any material inaccuracy or change in circumstance relative to any application question, where the changed circumstance arises between submission of a license application and issuance of the license sought;
- (c) any arrest or charge for conduct occurring in the course of, or in direct relation to, the practice of nursing;
- (d) any conviction for any criminal act;
- (e) any injunction or other order of a court or regulatory authority, including any order to cease & desist and any assurance of discontinuance, limiting the licensee's ability to practice;
- (f) any legal claim, settlement, or judgment arising from alleged professional negligence, misconduct, or malpractice; and
- (g) any adverse action against a professional license in another jurisdiction, where the adverse action relates to an allegation of misconduct, substandard practice, or unethical conduct.

Part 12 Alternative to Discipline Program

12-1 Alternative Program. As authorized by 26 V.S.A. § 1574(a)(10), the Board administers an Alternative Program to serve as an alternative to the disciplinary process for nurses and nursing assistants with substance use disorders or other professional practice issues as designated by the Board. The purpose of the Program is to protect the public safety while encouraging licensees to seek help when necessary and without fear of adverse licensing consequences or undue publicity. The Program reflects the Board's belief that nurse wellness is foundational to safe practice.

12-2 Eligibility. A person eligible to participate in the Alternative Program shall:

- (a) hold a license issued by the Board or be an eligible applicant for one;
- (b) voluntarily request to participate;
- (c) not be the subject of any unresolved complaint, investigation, or charge, unless specifically approved for participation by the State Prosecuting Attorney authorized to bring disciplinary charges;
- (d) acknowledge that a deficiency in some aspect of nursing practice, or a substance use disorder, if not appropriately addressed, may impact the licensee's ability to practice safely and competently;
- (e) illustrate that the condition or circumstance is of a type susceptible to successful treatment or remedial training; and
- (f) if requested, agree to undergo a comprehensive assessment, at the applicant's expense, from a pre-approved qualified provider based on criteria determined by the Committee.

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12-3 Disqualification. Notwithstanding Rule 12-2, *supra.*, no person shall be eligible to participate in the Program who:

- (a) has harmed or endangered a patient through willful, knowing, or reckless or inexcusably negligent conduct, or has exhibited abusive or cruel behavior toward a patient;
- (b) presents a danger to the public;
- (c) has a history of non-compliance with treatment or remediation programs;
- (d) has attempted to conceal a practice error or falsify records; or
- (e) in the judgment of the Committee, is not an appropriate candidate for any reason.

12-4 Confidentiality. Records pertaining to an individual's participation in the Program are not available to the public and shall not be publicized, except:

- (a) by order of a court of competent jurisdiction;
- (b) when necessary and appropriate to monitor compliance with Program requirements, such as by confirming conditions are followed at a place of employment or that a participant has remained in treatment;
- (c) when the Board is required by the terms of the Nurse Licensure Compact to report Program participation to the coordinated licensure information system, pursuant to 26 V.S.A. § 1647f; or
- (d) when participation in the Program is considered in a future disciplinary matter.

12-5 Administration and Selection. The Alternative Program is administered by the Executive Director. The investigative team assigned to a matter may refer a potential participant if the team believes participation would be in the interest of the public health, safety, and welfare; consistent with these Rules and applicable policies of the Alternative Program Committee; and likely to benefit the eligible person's fitness to practice.

12-6 Agreement. When a participant is approved, the Executive Director or case manager shall propose an Alternative Program Agreement suited to address the underlying conduct or circumstance. The Agreement must be jointly approved by the participant and the Executive Director. The Agreement shall at a minimum specify:

- (a) the conduct, circumstance, or condition acknowledged to require treatment or remediation;
- (b) that such conduct, circumstance, or condition shall not be the subject of Board discipline if the participant successfully completes the Alternative Program as set out in the Agreement;
- (c) the conditions of participation, to include without limitation any supervision, restriction, testing, coursework, treatment or other requirements calculated to aid the participant while appropriately protecting the public;
- (d) that the Agreement is voluntary and that the participant agrees to forgo due process rights associated with a contested disciplinary case before the Board;
- (e) that the participant shall grant the Program releases as may be reasonably requested to confirm treatment compliance and progress and agrees not to assert patient-provider privilege to frustrate Program oversight; and
- (f) that violation of the Agreement shall constitute unprofessional conduct and may result in public disciplinary charges.

12-7 Effect on Multistate Licensure Privilege. The Board is obligated by the Nurse Licensure Compact to deactivate the multistate licensure privilege of any nurse licensed by the Board, for the duration of the nurse's participation in an alternative program. *See* 26 V.S.A. § 1647(e)(c).

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Part 13

Discipline

13- 1 Unprofessional Conduct. Unprofessional conduct includes those acts set out at 3 V.S.A. § 129a (applicable to all professional licensees) and 26 V.S.A. § 1582 (applicable to the nursing professions). Violation of these rules is cognizable as unprofessional conduct pursuant to 3 V.S.A. § 129a(a)(3).

13-2 Remedies. Upon a finding by the Board that a licensee, applicant, or person who later becomes an applicant has committed unprofessional conduct, within or without this State, or has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct which would constitute unprofessional conduct in this State, or has surrendered a license while under investigation for unprofessional conduct, the Board may warn, reprimand, suspend, revoke, limit, condition, deny, or prevent the renewal of a license or privilege to practice. *See* 3 V.S.A. § 129(a). A license may be summarily suspended pending further proceedings, consistent with 3 V.S.A. § 814(c), upon a finding that public health, safety, or welfare imperatively requires emergency action.