



July 19, 2018

Dr. Sue A Painter
90 MacCorkle Avenue, Southwest
Suite 203
South Charleston, West Virginia 25303

RE: 19CSR10, Standards for Scope of Professional Nursing Practice

Dear Dr. Painter:

On behalf of the Assisted Living facility members of the West Virginia Health Care Association, I am writing to offer comments on 19CSR10, Standards for Scope of Professional Nursing Practice, specifically subsection 2.4.2 of the proposed rule, which address a nurse's responsibilities when delegating duties to unlicensed assistive personnel. We are concerned that the following proposed language may limit the ability for certain care settings to utilize approved medication assistive personnel (AMAPs):

2.4.2. Prescribing nursing intervention(s) based upon the nursing diagnosis and/or patient care needs; Delegates to another only those nursing measures for which that person has the necessary skills and competence to accomplish safely. In maintaining accountability for the delegation, an RN shall ensure the:

2.4.2.1 Unlicensed assistive personnel (UAP) has the education, legal authority, and demonstrated competency to perform the delegated task.

2.4.2.2 Tasks delegated are consistent with the UAP's job description and can be safely performed according to clear, exact and unchanging directions.

2.4.2.3 Results of the task are reasonably predictable.

2.4.2.4 Task does not require assessment, interpretation or independent decision making during its performance or at completion.

2.4.2.5 Selected patient and circumstances of the delegation are such that delegation of the task poses minimal risk to the patient and the consequences of performing the task improperly are not life-threatening.

2.4.2.6 Provides clear directions and guidelines regarding the delegated task or, for routine tasks on stable patients, verifies that the UAP follow each written facility policy or procedure when performing the delegated task.

2.4.2.7 Provides supervision and feedback to the UAP.

2.4.2.8 Observes and communicates the outcome of the delegated task.

AMAPs are specially trained individuals who can administer medications and perform health maintenance tasks. West Virginia Code §16-5O authorizes the use of AMAPs in intermediate care facilities for individuals with intellectual disabilities, behavioral health group homes, assisted living facilities, and private residences. Though AMAPs must meet certain requirements, complete specialized training, and pass competency testing, they are essentially unlicensed assistive personnel and would likely fall under the parameters of 2.4.2.

West Virginia Code §16-5O and 64CSR60 both address the regulation of AMAPs, including a nurse's responsibilities when delegating duties to an AMAP related to medication administration and health maintenance tasks. While some language in proposed subsection 2.4.2 relating to unlicensed assistive personnel is similar to language contained in the AMAPs article and corresponding rule, some of the proposed language seemingly exceeds the requirements contained in the AMAPs article and rule, and therefore may exceed legislative intent. Further, the increased requirements proposed in 2.4.2 could cause nurses to decline to supervise AMAPs, thus limiting or even eliminating the use of AMAPs.

AMAPs are regulated by the Office of Health Facility Licensure and Certification (OHFLAC), not the Board of Registered Professional Nurses. They have been utilized in various care settings since 2001. Over 10,000 individuals have been trained as AMAPs in our state, and representatives of OHFLAC testified before a legislative committee that no significant issues relating to AMAPs have been reported or identified.

AMAPs fill a crucial role on the health care team. We ask that either AMAPs be exempt from the proposed language contained in 19.CSR.10.2.4.2, or that the language be removed entirely so it does not conflict with existing law. Failing to do so could limit or eliminate the vital services that AMAPs provide.

Thank you for your consideration of our comments and requested change.

Sincerely,

A handwritten signature in cursive script that reads "Megan Roskovensky".

Megan Roskovensky

Director of Government Relations

cc: Tina Maher, Program Manager, OHFLAC

Joylnn Marra, Director, OHFLAC

Dr. Sue Painter, DNP, RN
Executive Director

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STATE OF WEST VIRGINIA
BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES
90 MacCorkle Avenue, SW
Suite 203
South Charleston, WV 25303-1443

July 26, 2018

Megan Roskovensky
Director of Government Relations
West Virginia Health Care Association
110 Association Drive
Charleston, West Virginia 25311

Dear Ms. Roskovensky:

The West Virginia Board of Examiners for Registered Professional Nurses appreciates the letter from the West Virginia Health Care Association. After discussion and consultation with General Counsel, the Board determined that the language as written would not interfere with §16-50 or 64CSR60. Therefore, no modification was made.

For the Board,

A handwritten signature in cursive script, appearing to read "Sue Painter".

Sue Painter DNP, RN

90 MacCorkle Avenue SW
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South Charleston, West Virginia 25303

Painter, Sue A

From: HEATHER TULLY <mrstully2010@me.com>
Sent: Friday, July 20, 2018 4:25 PM
To: Painter, Sue A
Subject: Public Comments for Legislative Rule 19-10

Dr. Painter:

RE: Public Comments for Legislative Rule (Title 19-10)

It has been well established that Registered Nurses (RN's) and Licensed Practical Nurses (LPN's) are accountable for their judgments, decisions and actions relating to the care of patients. Per the American Nurses Association, "Nurses accept or reject specific role demands and assignments based on their education, knowledge, competence and experience, as well as their assessment of the level of risk for patient safety" (American Nurses Association [ANA], 2015, p.16). The role that personal accountability plays for the *individual direct care nurse* is well defined by the ANA and the respective West Virginia Boards of Nursing.

However, it seems as though the accountability that Nurse Executives, Chief Nursing Officers, Nurse Managers, and Charge Nurses have—both to their subordinates and patients receiving care from their organizations—is NOT given due consideration in the existing draft West Virginia Board of Professional Registered Nurses' document entitled, *The Standards for Scope of Professional Nursing Practice*. The ANA Code of Ethics indicates that nurses who are not directly involved in care share responsibility for the care provided by those that they supervise (ANA, 2015). It is the responsibility of the licensed nurse leader, manager, or supervisor to delegate professional responsibilities only to persons who are qualified by education, experience or by licensure to carry out the responsibility. Administrative and supervisory nursing personnel also have the responsibility to make adequate provisions for staffing to ensure necessary patient care in all situations.

The moral imperative for nursing leaders to address nurse staffing goes beyond the consideration of maintaining the financial viability of their employing health care institution. There is extensive empirical research establishing the link between inadequate nurse staffing and negative patient outcomes. Appropriate nurse staffing matters to nurses, patients, and their families. Staffing matters because it is linked to patient safety and satisfaction, workforce satisfaction and safety, as well as cost savings (Saber, 2013).

This begs the questions: At what point are nursing administrators and leaders held accountable—as licensed nurses—to the respective WV Boards of Nursing for repeated conduct that is not in alignment with the standards set by CMS, accrediting organizations, professional practice standards, & the BON itself for nursing practice? At what point would a nursing

executive be held accountable to the Board for continually & willfully understaffing their facilities? Why are nursing leaders seemingly not held accountable for failing to consider safety issues that patients face when staff nurses cannot effectively manage the care related to their patient care assignments? Should this sort of conduct lead to charges of unprofessional conduct being brought forth against the nurse leader for failing in their role to provide patients with necessary professional services?

As a nurse & member of the public, I feel the West Virginia Board of Professional Registered Nurses should specifically address the accountability expected from Nurse Executives, Chief Nursing Officers, Nurse Managers, Charge Nurses & other nurses that hold leadership positions.

American Nurses Association. (2015). Code of ethics for nurses with interpretive statements. Washington, DC: Author.

Saber, D. (2013). Generational differences of the frontline nursing workforce in relation to job satisfaction: What does the literature reveal? *Health Care Manager, 32*(4), 329-335.

RE: RE: Public Comments for Legislative Rule (Title 19-10-2.4.5)

As drafted, the West Virginia Board of Professional Registered Nurses' document entitled, *The Standards for Scope of Professional Nursing Practice*, is silent as to the proximity of the licensed supervisor for Licensed Professional Nurses & Unlicensed Personnel. While there are many factors to be considered in determining how quickly the licensed supervisor needs to be available to the LPN/UP, changes to the healthcare environment cannot be ignored when examining this

issue. Please consider that many charge nurses may now hold dual roles simultaneously: primary nurse responsible for a direct care assignment; supervisor & resource person for travel nurses, inexperienced nurses, & float pool; Medical Emergency Team (MET) Nurse or Rapid Response (RRT) Nurse which takes them off of the floor for extended periods of time. As such, language clarifying the term “supervision” should be included.

Dr. Sue Painter, DNP, RN
Executive Director

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STATE OF WEST VIRGINIA
BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES
90 MacCorkle Avenue, SW
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South Charleston, WV 25303-1443

July 26, 2018

Heather Tully
1829 Webster Road
Summersville, West Virginia 26651

Dear Ms. Tully,

The West Virginia Board of Examiners for Registered Professional Nurses appreciates the letter from a Registered Professional Nurse. After discussion and consultation with General Counsel, the Board determined that the language does not require modification. West Virginia Code §30. Professions and Occupations, Article 7. and all Rules in 19CSR 1-14 are applicable to a Registered Professional Nurse regardless of their role.

For the Board,

A handwritten signature in black ink, appearing to read "Sue Painter".

Sue Painter DNP, RN
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