

## Division 45

# Standards and Scope of Practice for the Licensed Practical Nurse and Registered Nurse

### **Purpose of Standards and Scope of Practice and Definitions**

#### **851-045-0030**

- (1) Purpose of Standards and Scope of Practice:
  - (a) To establish acceptable levels of safe practice for the Licensed Practical Nurse (LPN) and Registered Nurse (RN);
  - (b) To serve as a guide for the Board to evaluate safe and effective nursing care as well as a guide to determine when nursing practice is below the expected standard of care; and
  - (c) To provide a framework for evaluation of continued competency in nursing practice.
- (2) Definitions:
  - (a) "Assignment" means the act of directing and distributing, by a licensed nurse, and within a given work period, the work that each staff member is already authorized to perform;
  - (b) "Client" means individuals, families, groups, communities, organizations, and populations who are engaged in a relationship with the nurse in order to receive the services provided by the nurse's application of nursing knowledge and skill in practice;
  - (c) "Comprehensive Assessment" means the extensive collection and analysis of data for the purpose of judging a client's health status and actual or potential health needs. Comprehensive assessment involves, but is not limited to, the synthesis of the biological, psychological, social, sexual, economic, cultural and spiritual aspects of the client's condition or needs, within the environment of practice, for the purpose of establishing nursing diagnostic statements, and developing, implementing and evaluating a plan of care;
  - (d) "Context of Care" means the cumulative factors which affect the manner in which nursing care will be provided for a client. These factors may include, but are not limited to, the practice setting; the urgency of the situation; knowledge, beliefs and abilities of the client; the surrounding environment; and community and industry standards;
  - (e) "Delegation," except as defined in OAR 851-047-0010(7), is the process a Registered Nurse uses when authorizing a competent individual to perform a task of nursing, while retaining accountability for the outcome;
  - (f) "Focused Assessment" means an appraisal of a client's status and situation at hand, through observation and collection of objective and subjective data. Focused assessment involves identification of normal and abnormal findings, anticipation and recognition of changes or potential changes in client's health status, and may contribute to a comprehensive assessment performed by the Registered Nurse;
  - (g) "Health Education" means the development and provision of instruction and learning experiences for a client, including health teaching and health counseling, using evidence-based information, for the purpose of promoting wellness, preventing illness or disability, maintaining or restoring health, or assisting the client to adapt to the effects of illness or disability;
  - (h) "Licensed Nurse" means all Licensed Practical Nurses and Registered Nurses licensed under ORS 678.
  - (i) "Nursing Diagnostic Statements" means the nursing diagnoses or reasoned conclusions which are developed as a result of nursing assessment. They describe a client's actual or potential health problems which are amenable to resolution by means of nursing strategies, interventions or actions;

- (j) "Nursing Interventions" means actions deliberately designed, selected and performed to implement the plan of care;
- (k) "Nursing orders" means directives for specific nursing interventions initiated by the Registered Nurse which are intended to produce the desired outcome or objective, as defined in the plan of care;
- (l) "Nursing process" means the systematic problem solving method licensed nurses use when they provide nursing care. The nursing process includes assessing, making nursing diagnoses, planning, intervening, and evaluating. The steps of the nursing process are interrelated and together form the basis for the practice of nursing;
- (m) "Person-Centered Care" means the collaboration with an individual person regarding his or health care in a manner that is considerate and respectful of the specific wishes and needs of that person;
- (n) "Plan of Care" means the written guidelines developed to identify specific needs of the client and intervention/regimen to assist clients to achieve optimal health potential. Developing the plan of care includes establishing client and nursing goals and determining nursing interventions to meet care objectives;
- (o) "Professional Boundaries" means the limits that allow for safe and therapeutic connections between the nurse and the client;
- (p) "Supervision" means the provision of guidance, direction, oversight, evaluation and follow-up by a licensed nurse for the accomplishment of nursing tasks and activities by other nurses and nursing assistive personnel;
- (q) "Tasks of Nursing" means those procedures normally performed by nurses when implementing the nursing plan of care; and
- (r) "Unlicensed Assistive Personnel" means individuals who are not licensed to practice nursing, medicine or any other health occupation requiring a licensed in Oregon, but who may carry out delegated tasks of nursing. For the purpose of these rules, Certified Nursing Assistants and Certified Medication Aides are not considered unlicensed assistive personnel.

**Stat. Auth.: ORS 678.150**

**Stats. Implemented: ORS 678.150, 678.010**

### **Scope of Practice Standards for All Licensed Nurses**

#### **851-045-0040**

- (1) Standards related to the licensed nurse's responsibilities for client advocacy. The licensed nurse:
  - (a) Advocates for the client's right to receive appropriate care, including person-centered care and end-of-life care, considerate of the client's needs, choices and dignity;
  - (b) Intervenes on behalf of the client to identify changes in health status, to protect, promote and optimize health, and to alleviate suffering;
  - (c) Advocates for the client's right to receive appropriate and accurate information;
  - (d) Communicates client's choices, concerns and special needs to other members of the healthcare team; and
  - (e) Protects clients' rights to engage in or refuse to engage in research.
- (2) Standards related to the licensed nurse's responsibilities for the environment of care. The licensed nurse:
  - (a) Promotes an environment conducive to safety and comfort for all levels of care, including self-care and end-of-life care; and
  - (b) Identifies client safety and environment concerns; takes action to correct those concerns and report as needed.
- (3) Standards related to the licensed nurse's responsibilities for ethics, including professional accountability and competence. The license nurse:
  - (a) Has knowledge of the statutes and regulations governing nursing, and practices within the legal boundaries of licensed nursing practice;
  - (b) Accepts responsibility for individual nursing actions and maintains competence in

- one's area of practice;
  - (c) Obtains instruction and supervision as necessary when implementing nursing practices;
  - (d) Accepts only nursing assignments for which one is educationally prepared and has the current knowledge, skills and ability to safely perform;
  - (e) Accepts responsibility for notifying the employer of an ethical objection to the provision of specific nursing care or treatment;
  - (f) Maintains documentation of the method by which competency was gained, and evidence that it has been maintained;
  - (g) Ensures unsafe nursing practices are reported to the Board of Nursing and unsafe practice conditions to the appropriate regulatory agency(s);
  - (h) Retains professional accountability when accepting, assigning, or supervising nursing care and interventions;
  - (i) Demonstrates honesty and integrity in nursing practice;
  - (j) Promotes and preserves clients' autonomy, dignity and rights in a nonjudgmental, nondiscriminatory manner that recognizes client diversity;
  - (k) Maintains appropriate professional boundaries; and
  - (l) Protects confidential client information, and uses judgment in sharing this information in a manner that is consistent with current law.
- (4) Standards related to the licensed nurse's responsibilities toward nursing technology. The licensed nurse:
- (a) Acquires and maintains knowledge, skills and abilities for informatics and technologies used in nursing practice settings; and
  - (b) Promotes the selection and use of informatics and technologies that are compatible with the safety, dignity, and rights of the client.
- (5) Standards related to the licensed nurse's responsibility to assign and supervise care. The licensed nurse:
- (a) Assigns to another person, tasks of nursing that fall within the nursing scope of practice and/or the work that each staff member is already authorized to perform;
  - (b) Supervises others to whom nursing activities are assigned by monitoring performance, progress, and outcomes;
  - (c) Ensures documentation of the activity;
  - (d) Matches client needs with available, qualified personnel, resources and supervision;
  - (e) Provides follow-up on problems and intervenes when needed;
  - (f) Evaluates the effectiveness of the assignment and the outcomes of the interventions; and
  - (g) Revises or recommends changes to the plan of care as needed.
- (6) Standards related to the licensed nurse's responsibility to accept and implement orders for client care and treatment. The licensed nurse:
- (a) May accept and implement orders for client care from licensed health care professionals who are authorized by Oregon statute to independently diagnose and treat;
  - (b) May accept and implement recommendations for care in collaboration with other health care professionals;
  - (c) May accept and implement orders for client care and treatment from Certified Registered Nurse Anesthetists licensed under ORS 678. These orders may be accepted in ambulatory surgical centers, and in hospital settings, as long as independent Certified Registered Nurse Anesthetists practice is consistent with hospital bylaws;
  - (d) May accept and implement orders for client care and treatment from Physician Assistants licensed under ORS 677, provided that the name of the supervising or agent physician is recorded with the order, in the narrative notes, or by a method specified by the health care facility. At all times the supervising or agent physician must be available to the licensed nurse for direct communication;
  - (e) Prior to implementation of the order or recommendation, must have knowledge that the order or recommendation is within the health care professional's scope of

- practice and determine that the order or recommendation is consistent with the overall plan for the client's care; and
- (f) Has the authority and responsibility to question any order or recommendation which is not clear, perceived as unsafe, contraindicated for the client or inconsistent with the plan of care.

**Stat. Auth.: ORS 678.150**

**Stats. Implemented: ORS 678.150, 678.010**

**Scope of Practice Standards for Licensed Practical Nurses**

**851-045-0050**

- (1) The Board recognizes that the scope of practice for the licensed practical nurse encompasses a variety of roles, including but not limited to:
  - (a) Provision of client care;
  - (b) Supervision of others in the provision of care;
  - (c) Participation in the development and implementation of health care policy;
  - (d) Participation in nursing research; and
  - (e) Teaching health care providers and prospective health care providers.
- (2) Standards related to the Licensed Practical Nurse's responsibility for nursing practice implementation. Under the clinical direction of the RN or other licensed provider who has the authority to make changes in the plan of care, and applying practical nursing knowledge drawn from the biological, psychological, social, sexual, economic, cultural and spiritual aspects of the client's condition or needs, the Licensed Practical Nurse shall:
  - (a) Conduct and document initial and ongoing focused nursing assessments of the health status of clients by:
    - (A) Collecting objective and subjective data from observations, examinations, interviews, and written records in an accurate and timely manner as appropriate to the client's health care needs and context of care;
    - (B) Distinguishing abnormal from normal data, sorting, selecting, recording, and reporting the data;
    - (C) Detecting potentially inaccurate, incomplete or missing client information and reporting as needed;
    - (D) Anticipating and recognizing changes or potential changes in client status; identifying signs and symptoms of deviation from current health status; and
    - (E) Validating data by utilizing available resources, including interactions with the client and health team members.
  - (b) Select nursing diagnostic statements and/or reasoned conclusions, from available resources, which serve as the basis for the plan or program of care.
  - (c) Contributes to the development of a comprehensive plan of nursing care, and develops focused plans of nursing care. This includes:
    - (A) Identifying priorities in the plan of care;
    - (B) Setting realistic and measurable goals to implement the plan of care in collaboration with the client and the healthcare team; and
    - (C) Selecting appropriate nursing interventions and strategies.
  - (d) Implement the plan of care by:
    - (A) Implementing treatments and therapy, appropriate to the context of care, including but not limited to, medication administration, nursing activities, nursing, medical and interdisciplinary orders; health teaching and health counseling; and
    - (B) Documenting nursing interventions and responses to care in an accurate, timely, thorough, and clear manner.
  - (e) Evaluating client responses to nursing interventions and progress toward desired outcomes.
    - (A) Outcome data shall be used as a basis for reassessing the plan of care and modifying nursing interventions; and
    - (B) Outcome data shall be collected, documented and communicated to appropriate members of the healthcare team.

- (3) Standards related to the Licensed Practical Nurse's responsibility for collaboration with an interdisciplinary team. The Licensed Practical Nurse:
  - (a) Functions as a member of the healthcare team to collaborate in the development, implementation and evaluation of integrated client-centered plans of care;
  - (b) Demonstrates knowledge of roles of members of the interdisciplinary team;
  - (c) Communicates with the registered nurse and/or other relevant personnel regarding integrated client-centered plans of care; and
  - (d) Makes referrals as necessary.
- (4) Standards related to the Licensed Practical Nurse's responsibility for leadership. The Licensed Practical Nurse:
  - (a) Contributes to the formulation, interpretation, implementation and evaluation of the policies, protocols and operating guidelines related to nursing practice, and to the needs of the clients served;
  - (b) Assists with the development and mentoring of other members of the healthcare team; and
  - (c) Identifies changes in clients and changes in the practice environment that require change in policy and/or protocol.
- (5) Standards related to the Licensed Practical Nurse's responsibility for quality of care. The Licensed Practical Nurse:
  - (a) Identifies factors that affect the quality of client care and contributes to the development of quality improvement standards and processes.
  - (b) Contributes to the collection of data related to the quality of nursing care; and
  - (c) Participates in the measurement of outcomes of nursing care and overall care at the individual and aggregate level.
- (6) Standards related to the Licensed Practical Nurse's responsibility for health promotion. The Licensed Practical Nurse:
  - (a) Selects or implements evidence-based health education plans that address the client's context of care, culture, learning needs, readiness and ability to learn, in order to achieve optimal health; and
  - (b) Evaluates the outcome of health education to determine effectiveness, adjusts teaching strategies, and refers client to another licensed healthcare professional as needed.
- (7) Standard related to the Licensed Practical Nurse's responsibility for cultural sensitivity. The Licensed Practical Nurse:
  - (a) Applies a basic knowledge of cultural differences to collaborate with clients to provide healthcare that recognizes cultural values, beliefs, and customs.

**Stat. Auth.: ORS 678.150**

**Stats. Implemented: ORS 678.150, 678.010**

### **Scope of Practice Standards for Registered Nurses**

#### **851-045-0060**

- (1) The Board recognizes that the scope of practice for the registered nurse encompasses a variety of roles, including but not limited to:
  - (a) Provision of client care;
  - (b) Supervision of others in the provision of care;
  - (c) Development and implementation of health care policy;
  - (d) Consultation in the practice of nursing;
  - (e) Nursing administration;
  - (f) Nursing education;
  - (g) Case management;
  - (h) Nursing research;
  - (i) Teaching health care providers and prospective health care providers;
  - (j) Specialization in advanced practice; and
  - (k) Nursing Informatics.
- (2) Standards related to the Registered Nurse's responsibility for nursing practice implementation. Applying nursing knowledge, critical thinking and clinical judgment

effectively in the synthesis of biological, psychological, social, sexual, economic, cultural and spiritual aspects of the client's condition or needs, the Registered Nurse shall:

- (a) Conduct and document initial and ongoing comprehensive and focused nursing assessments of the health status of clients by:
    - (A) Collecting objective and subjective data from observations, examinations, interviews, and written records in an accurate and timely manner as appropriate to the client's health care needs and context of care;
    - (B) Distinguishing abnormal from normal data, sorting, selecting, recording, analyzing, synthesizing and reporting the data;
    - (C) Detecting potentially inaccurate, incomplete or missing client information and reporting as needed;
    - (D) Anticipating and recognizing changes or potential changes in client status; identifying signs and symptoms of deviation from current health status; and
    - (E) Validating data by utilizing available resources, including interactions with the client and health team members.
  - (b) Establish and document nursing diagnostic statements and/or reasoned conclusions which serve as the basis for the plan or program of care.
  - (c) Develop and coordinate a comprehensive and/or focused plan of nursing care. This includes:
    - (A) Identifying priorities in the plan of care;
    - (B) Setting realistic and measurable goals to implement the plan of care in collaboration with the client and the healthcare team; and
    - (C) Developing nursing orders and identifying nursing strategies, interventions and actions.
  - (d) Implement the plan of care by:
    - (A) Implementing treatments and therapy, appropriate to the context of care, including emergency measures, interpretation of medical orders, medication administration, independent nursing activities, nursing, medical and interdisciplinary orders, health teaching and health counseling; and
    - (B) Documenting nursing interventions and responses to care in an accurate, timely, thorough, and clear manner.
  - (e) Evaluating client responses to nursing interventions and progress toward desired outcomes.
    - (A) Outcome data shall be used as a basis for reassessing the plan of care and modifying nursing interventions; and
    - (B) Outcome data shall be collected, documented and communicated to appropriate members of the healthcare team.
- (3) Standards related to the Registered Nurse's responsibility for collaboration with an interdisciplinary team. The Registered Nurse:
- (a) Functions as a member of the healthcare team to collaborate in the development, implementation and evaluation of integrated client-centered plans of care;
  - (b) Demonstrates knowledge of roles of members of the interdisciplinary team;
  - (c) Communicates with other relevant personnel regarding integrated client-centered plans of care; and
  - (d) Makes referrals as necessary and ensures follow-up on those referrals.
- (4) Standards related to the Registered Nurse's responsibility for leadership. The Registered Nurse:
- (a) Formulates, interprets, implements and evaluates the policies, protocols and operating guidelines related to nursing practice, and the needs of the clients served;
  - (b) Assumes responsibility for the development and mentoring of other members of the healthcare team; and
  - (c) When available, uses evidence to identify needed changes in practice, standards for policy development, and clinical decision-making.
- (5) Standards related to the Registered Nurse's responsibility for quality of care. The Registered Nurse:

- (a) Identifies factors that affect the quality of client care and develops quality improvement standards and processes;
  - (b) Applies the knowledge and tools of continuous improvement in practice to improve the delivery of healthcare; and
  - (c) Measures outcomes of nursing care and overall care at the individual and aggregate level.
- (6) Standards related to the Registered Nurse's responsibility for health promotion. The Registered Nurse:
- (a) Develops and implements evidence-based health education plans that address the client's context of care, learning needs, readiness, ability to learn, and culture, to achieve optimal health; and
  - (b) Evaluates the outcome of health education to determine effectiveness, adjusts teaching strategies, and refers client to another licensed healthcare professional as needed.
- (7) Standard related to the Registered Nurse's responsibility for cultural sensitivity. The Registered Nurse:
- (a) Applies a broad knowledge of cultural differences to collaborate with clients to provide healthcare that recognizes cultural values, beliefs, and customs.
- (8) Standards Related to Registered Nurse's responsibility to delegate and supervise the practice of nursing. The Registered Nurse:
- (a) Delegates to other Oregon licensed nurses and Certified Nursing Assistants or Medication Aides tasks of nursing that may not be within the licensee's or certificate-holder's normal duties but always fall within the licensee's scope of practice or certificate-holder's authorized duties;
  - (b) Delegates to Unlicensed Assistive Personnel;
  - (c) Delegates only within the scope of Registered Nursing practice;
  - (d) May delegate tasks of nursing, but may not delegate the nursing process. The core nursing functions of assessment, planning, evaluation, and nursing judgment cannot be delegated;
  - (e) Maintains responsibility, accountability and authority for teaching and delegation of tasks of nursing;
  - (f) Maintains sole responsibility, based on professional judgment, whether or not to delegate a task of nursing or to rescind that delegation;
  - (g) Maintains the right to refuse to delegate tasks of nursing if the Registered Nurse believes it would be unsafe to delegate or is unable to provide adequate supervision;
  - (h) Considers the training, experience and cultural competence of the delegated individual, as well as facility and agency policies and procedures before delegating;
  - (i) Delegates tasks of nursing to another individual only if that individual has the necessary skills and competence to accomplish those tasks of nursing safely;
  - (j) Matches client needs with available, qualified personnel, resources and supervision;
  - (k) Communicates directions and expectations for completion of the delegated tasks of nursing;
  - (l) Supervises others to whom nursing activities are delegated and monitors performance, progress, and outcomes. Ensures documentation of the activity;
  - (m) Evaluates the effectiveness of the delegation and the outcomes of the interventions;
  - (n) Revises the plan of care as needed;
  - (o) Follows OAR 851-047-0000 through 851-047-0040 when delegating tasks of nursing in practice settings identified in those rules;
  - (p) May not delegate the insertion or removal of devices intended for intravenous infusion; and
  - (q) May not delegate administration of medications by the intravenous route, except as provided in OAR 851-047-0030.

**Stat. Auth.: ORS 678.150**

**Stats. Implemented: ORS 678.150, 678.010**

**Conduct Derogatory to the Standards of Nursing Defined**  
**851-045-0070**

Nurses, regardless of role, whose behavior fails to conform to the legal standard and accepted standards of the nursing profession, or who may adversely affect the health, safety, and welfare of the public, may be found guilty of conduct derogatory to the standards of nursing. Such conduct shall include, but is not limited to, the following:

- (1) Conduct related to the client's safety and integrity:
  - (a) Developing, modifying, or implementing standards of nursing practice/care which jeopardize patient safety.
  - (b) Failing to take action to preserve or promote the client's safety based on nursing assessment and judgment.
  - (c) Failing to develop, implement and/or follow through with the plan of care.
  - (d) Failing to modify, or failing to attempt to modify the plan of care as needed based on nursing assessment and judgment, either directly or through proper channels.
  - (e) Assigning persons to perform functions for which they are not prepared or which are beyond their scope of practice/scope of duties.
  - (f) Improperly delegating tasks of nursing care to unlicensed persons in settings where a registered nurse is not regularly scheduled.
  - (g) Failing to supervise persons to whom nursing tasks have been assigned.
  - (h) Failing to teach and supervise unlicensed persons to whom nursing tasks have been delegated.
  - (i) Leaving a client care assignment during the previously agreed upon work time period without notifying the appropriate supervisory personnel and confirming that nursing care for the client(s) will be continued.
  - (j) Leaving or failing to complete any nursing assignment, including a supervisory assignment, without notifying the appropriate personnel and confirming that nursing assignment responsibilities will be met.
  - (k) Failing to report through proper channels facts known regarding the incompetent, unethical, unsafe or illegal practice of any health care provider.
  - (l) Failing to respect the dignity and rights of clients, regardless of social or economic status, age, race, religion, sex, sexual orientation, national origin, nature of health needs, or disability.
  - (m) Engaging in or attempting to engage in sexual contact with a client; and
  - (n) Failing to maintain professional boundaries with a client.
- (2) Conduct related to other federal or state statute/rule violations:
  - (a) Abusing a client. The definition of abuse includes, but is not limited to, intentionally causing physical or emotional harm or discomfort, striking a client, intimidating, threatening or harassing a client, wrongfully taking or appropriating money or property, or knowingly subjecting a client to distress by conveying a threat to wrongfully take or appropriate money or property in a manner that causes the client to believe the threat will be carried out.
  - (b) Neglecting a client. The definition of neglect includes, but is not limited to, carelessly allowing a client to be in physical discomfort or be injured.
  - (c) Engaging in other unacceptable behavior towards or in the presence of a client such as using derogatory names or gestures or profane language.
  - (d) Failing to report actual or suspected incidents of client abuse through the proper channels in the work place and to the appropriate state agencies.
  - (e) Failing to report actual or suspected incidents of child abuse or elder abuse to the appropriate state agencies.
  - (f) Unauthorized removal or attempted removal of narcotics, other drugs, supplies, property, or money from clients, the work place, or any person.
  - (g) Soliciting or borrowing money, materials, or property from clients.
  - (h) Using the nurse client relationship to exploit the client by gaining property or other items of value from the client either for personal gain or sale, beyond the compensation for nursing services.



- (i) Possessing, obtaining, attempting to obtain, furnishing, or administering prescription or controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs.
  - (j) Aiding, abetting, or assisting an individual to violate or circumvent any law, rule or regulation intended to guide the conduct of nurses or other health care providers.
  - (k) Failing to conduct practice without discrimination on the basis of age, race, religion, sex, sexual orientation, national origin, nature of health needs, or disability.
  - (l) Violating the rights of privacy, confidentiality of information, or knowledge concerning the client, unless required by law to disclose such information or unless there is a "need to know."
  - (m) Violating the rights of privacy, confidentiality of information, or knowledge concerning the client by obtaining the information without proper authorization or when there is no "need to know."
  - (n) Unauthorized removal of client records, client information, facility property, policies or written standards from the work place; and
  - (o) Failing to dispense or administer medications, including Methadone, in a manner consistent with state and federal law.
- (3) Conduct related to communication:
- (a) Inaccurate recordkeeping in client or agency records.
  - (b) Incomplete recordkeeping regarding client care; including, but not limited, to failure to document care given or other information important to the client's care or documentation which is inconsistent with the care given.
  - (c) Falsifying a client or agency record or records prepared for an accrediting or credentialing entity; including, but not limited to, filling in someone else's omissions, signing someone else's name, record care not given, and fabricating data/values.
  - (d) Altering a client or agency record or records prepared for an accrediting or credentialing entity; including, but not limited to, changing words/letters/numbers from the original document to mislead the reader of the record, adding to the record after the original time/date without indicating a late entry.
  - (e) Destroying a client or agency record or records prepared for an accrediting or credentialing entity.
  - (f) Directing another person to falsify, alter or destroy client or agency records or records prepared for an accrediting or credentialing entity.
  - (g) Failing to maintain client records in a timely manner which accurately reflects management of client care, including failure to make a late entry within a reasonable time period.
  - (h) Failing to communicate information regarding the client's status to members of the health care team (physician, nurse practitioner, nursing supervisor, nurse co-worker) in an ongoing and timely manner; and
  - (i) Failing to communicate information regarding the client's status to other individuals who need to know; for example, family, and facility administrator.
- (4) Conduct related to achieving and maintaining clinical competency:
- (a) Performing acts beyond the authorized scope or the level of nursing for which the individual is licensed.
  - (b) Failing to conform to the essential standards of acceptable and prevailing nursing practice. Actual injury need not be established.
  - (c) Assuming duties and responsibilities within the practice of nursing for direct client care, supervisory, managerial or consulting roles without documented preparation for the duties and responsibilities and when competency has not been established and maintained; and
  - (d) Performing new nursing techniques or procedures without documented education specific to the technique or procedure and clinical preceptored experience to establish competency.
- (5) Conduct related to impaired function:
- (a) Practicing nursing when unable/unfit to perform procedures and/or make decisions

- due to physical impairment as evidenced by documented deterioration of functioning in the practice setting and/or by the assessment of a health care provider qualified to diagnose physical condition/status.
  - (b) Practicing nursing when unable/unfit to perform procedures and/or make decisions due to psychological or mental impairment as evidenced by documented deterioration of functioning in the practice setting and/or by the assessment of a health care provider qualified to diagnose mental condition/status; and
  - (c) Practicing nursing when physical or mental ability to practice is impaired by use of drugs, alcohol or mind-altering substances.
- (6) Conduct related to licensure or certification violations:
  - (a) Practicing nursing without a current Oregon license or certificate.
  - (b) Practicing as a nurse practitioner or clinical nurse specialist without a current Oregon certificate.
  - (c) Allowing another person to use one's nursing license or certificate for any purpose.
  - (d) Using another's nursing license or certificate for any purpose.
  - (e) Resorting to fraud, misrepresentation, or deceit during the application process for licensure or certification, while taking the examination for licensure or certification, while obtaining initial licensure or certification or renewal of licensure or certification.
  - (f) Impersonating any applicant or acting as a proxy for the applicant in any nurse licensure or certification examination; and
  - (g) Disclosing the contents of the examination or soliciting, accepting or compiling information regarding the contents of the examination before, during or after its administration.
- (7) Conduct related to the licensee's relationship with the Board:
  - (a) Failing to provide the Board with any documents requested by the Board.
  - (b) Failing to answer truthfully and completely any question asked by the Board on an application for licensure or during the course of an investigation or any other question asked by the Board.
  - (c) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except client-attorney privilege.
  - (d) Violating the terms and conditions of a Board order; and
  - (e) Failing to comply with the terms and conditions of Nurse Monitoring Program agreements.
- (8) Conduct related to the client's family:
  - (a) Failing to respect the rights of the client's family regardless of social or economic status, race, religion or national origin.
  - (b) Using the nurse client relationship to exploit the family for the nurse's personal gain or for any other reason.
  - (c) Theft of money, property, services or supplies from the family; and
  - (d) Soliciting or borrowing money, materials or property from the family.
- (9) Conduct related to co-workers:
  - (a) Violent, abusive or threatening behavior towards a co-worker which either occurs in the presence of clients or otherwise relates to the delivery of safe care to clients.
- (10) Conduct related to advanced practice nursing:
  - (a) Ordering laboratory or other diagnostic tests or treatments or therapies for one's self.
  - (b) Prescribing for or dispensing medications to one's self.
  - (c) Using self-assessment and diagnosis as the basis for the provision of care which would otherwise be provided by a client's professional caregiver.
  - (d) Billing fraudulently.
  - (e) Failing to release patient records upon receipt of request or release of information, including after closure of practice, and within a reasonable time, not to exceed 60 days from receipt of written notification from patient.
  - (f) Ordering unnecessary laboratory or other diagnostic test or treatments for the

- purpose of personal gain; and
- (g) Failing to properly maintain patient records after closure of practice or practice setting.

**Stat. Auth.: ORS 678.150**

**Stats. Implemented: ORS 678.150, 678.111, 678.390**

**Criminal Conviction History/ Falsification of Application – Denial of Licensure; Revocation of Licensure**

**851-045-0080**

- (1) As of the effective date of this rule, the Board will issue a Notice to Deny Licensure to an applicant for initial licensure or re-licensure as a Licensed Practical Nurse or Registered Nurse, following the provisions of the Administrative Procedure Act in contested case hearings, to persons who have been convicted as an adult, or found responsible except for mental illness, or adjudicated as a juvenile for the following crimes as set forth in Oregon law or comparable law in other jurisdictions:
  - (a) Aggravated Murder, as in ORS 163.095 and 115;
  - (b) First Degree Manslaughter, as in ORS 163.118;
  - (c) Second Degree Manslaughter, as in ORS 163.125;
  - (d) First Degree Assault, as in ORS 163.185;
  - (e) Second Degree Assault, as in ORS 163.175;
  - (f) First Degree Criminal Mistreatment, as in ORS 163.205;
  - (g) Second Degree Criminal Mistreatment, as in ORS 163.200;
  - (h) First Degree Kidnapping, as in ORS 163.235;
  - (i) First Degree Rape, as in ORS 163.375;
  - (j) Second Degree Rape, as in ORS 163.365;
  - (k) Third Degree Rape, as in ORS 163.355;
  - (l) First Degree Sodomy, as in ORS 163.405;
  - (m) Second Degree Sodomy, as in ORS 163.395;
  - (n) Third Degree Sodomy, as in ORS 163.385;
  - (o) First Degree Unlawful Sexual Penetration, as in ORS 163.411;
  - (p) Second Degree Unlawful Sexual Penetration, as in ORS 163.408;
  - (q) First Degree Sexual Abuse, as in ORS 163.427;
  - (r) Second Degree Sexual Abuse, as in ORS 163.425;
  - (s) Contributing to the Sexual Delinquency of a Minor, as in ORS 163.435;
  - (t) Sexual Misconduct, as in ORS 163.445; and
  - (u) Child Abandonment, as in ORS 165.535.
- (2) Any individual who applies for initial licensure or re-licensure as a practical nurse or registered nurse from the effective date of these rules, who has a history of arrests and convictions over an extended period of time will be issued a Notice to Deny Licensure following the provisions of the Administrative Procedure Act in contested case hearings.
- (3) All other applicants with conviction histories, other than those listed above, including crimes which are drug and alcohol related, will be considered on an individual basis. The following factors will be considered by the Board:
  - (a) Evidence of rehabilitation;
  - (b) The length of time since the conviction to the time of application for licensure as a practical nurse or registered nurse;
  - (c) The circumstances surrounding the commission of the crime which demonstrate that a repeat offense is not likely; and
  - (d) Character references.
- (4) As of the effective date of these rules, any individual who applies for initial licensure or re-licensure as a practical nurse or registered nurse, and supplies false or incomplete information to the Board on an application for licensure regarding the individual's criminal conviction record, will be issued a Notice to Deny Licensure under the provisions of the Administrative Procedure Act in contested case hearings.

**Stat. Auth.: ORS 678.150**

**Stats. Implemented: ORS 678.150, 678.111**

### **Mandatory Reporting Defined**

#### **851-045-0090**

- (1) It is not the intent of the Board of Nursing that each and every nursing error be reported.
- (2) It is not the intent of the Board of Nursing that mandatory take away the disciplinary ability and responsibility from the employer of the nurse.
- (3) Anyone knowing of a licensed nurse whose behavior or nursing practice fails to meet accepted standards for the level at which the nurse is licensed, shall report the nurse to the person in the work setting who has authority to institute corrective action. Anyone who has knowledge or concern that the nurse's behavior or practice presents a potential for, or actual danger to the public health, safety and welfare, shall report or cause a report to be made to the Board of Nursing. Failure of any licensed nurse to comply with this reporting requirement may in itself constitute a violation of nursing standards.
- (4) Any organization representing licensed nurses shall report a suspected violation of ORS Chapter 678, or the rules adopted within, in the manner prescribed by sections (5) and (6) of this rule.
- (5) The decision to report a suspected violation of ORS Chapter 678, or the rules adopted within, shall be based on, but not limited to, the following:
  - (a) The past history of the licensee's performance;
  - (b) A demonstrated pattern of substandard practice, errors in practice or conduct derogatory to the standards of nursing, despite efforts to assist the licensee to improve practice or conduct through a plan of correction; and
  - (c) The magnitude of any single occurrence for actual or potential harm to the public health, safety and welfare.
- (6) The following shall always be reported to the Board of Nursing:
  - (a) A nurse imposter. As used here "nurse imposter" means an individual who has not attended or completed a nursing education program or who is ineligible for nursing licensure as a LPN or RN and who practices or offers to practice nursing or uses any title, abbreviation, card, or device to indicate that the individual is licensed to practice nursing in Oregon;
  - (b) Practicing nursing when the license has become void due to nonpayment of fees;
  - (c) Practicing nursing as defined in ORS 678.010 unless licensed as a registered nurse or licensed practical nurse or certified as a nurse practitioner;
  - (d) Arrest for or conviction of a crime which relates adversely to the practice of nursing or the ability to safely practice nursing;
  - (e) Dismissal from employment due to unsafe practice or conduct derogatory to the standards of nursing;
  - (f) Client abuse;
  - (g) A pattern of conduct derogatory to the standards of nursing as defined by the rules of the Board or a single serious occurrence;
  - (h) Any violation of a disciplinary sanction imposed on the licensee by the Board of Nursing;
  - (i) Failure of a nurse not licensed in Oregon and hired to meet a temporary staffing shortage to apply for Oregon licensure by the day the nurse is placed on staff;
  - (j) Substance abuse as defined in ORS 678.111(e); and
  - (k) Any other cause for discipline as defined in ORS 678.111.

**Stat. Auth.: ORS 678.150**

**Stats. Implemented: ORS 678.150**

### **Imposition of Civil Penalties**

#### **851-045-0100**

- (1) Imposition of a civil penalty does not preclude disciplinary sanction against the nurse's license. Disciplinary sanction against the nurse's license does not preclude imposing a civil penalty. Criminal conviction does not preclude imposition of a civil penalty for the same offense.
- (2) Civil penalties may be imposed according to the following schedule:

- (a) Practicing nursing as a Licensed Practical Nurse (LPN), Registered Nurse (RN), Nurse Practitioner (NP), Certified Registered Nurse Anesthetist (CRNA) or Clinical Nurse Specialist (CNS) without a current license or certificate or Board required concurrent national certification; or prescribing, dispensing, or distributing drugs without current prescription writing authority, due to failure to renew and continuing to practice.....\$50 per day, up to \$5,000.
- (b) Using a limited license to practice nursing for other than its intended purpose.....\$100 per day.
- (c) Nurses not licensed in Oregon hired to meet a temporary staffing shortage who fail to make application for an Oregon license by the day placed on staff.....\$100 per day up to \$3,000.
- (d) Practicing nursing prior to obtaining an Oregon license by examination or endorsement.....\$100 per day.
- (e) Nurse imposter.....up to \$5,000.  
 "Nurse Imposter" means an individual who has not attended or completed a nursing education program or who is ineligible for nursing licensure or certification as a LPN, RN, NP, CRNA or CNS and who practices or offers to practice nursing or uses any title, abbreviation, card or device to indicate that the individual is so licensed or certified to practice nursing in Oregon; and
- (f) Conduct derogatory to the standards of nursing.....\$1,000-\$5,000.  
 The following factors will be considered in determining the dollar amount, to include but not be limited to:
  - (A) Intent;
  - (B) Damage and/or injury to the client;
  - (C) History of performance in current and former employment settings;
  - (D) Potential danger to the public health, safety and welfare;
  - (E) Prior offenses or violations including prior complaints filed with the Board and past disciplinary actions taken by the Board;
  - (F) Severity of the incident;
  - (G) Duration of the incident; and
  - (H) Economic impact on the person.
- (g) Violation of any disciplinary sanction imposed by the Board of Nursing.....\$1000-\$5,000.
- (h) Conviction of a crime which relates adversely to the practice of nursing or the ability to safely practice.....\$1,000-\$5,000.
- (i) Gross incompetence in the practice of nursing.....\$2,500-\$5,000.
- (j) Gross negligence in the practice of nursing.....\$2,500-\$5,000.
- (k) Employing any person with a current Oregon LPN, RN or CRNA license, NP or CNS certificate to function as a LPN, RN, CRNA, NP or CNS subject to the following conditions:
  - (A) Knowingly hiring an individual in a position of a licensed nurse when the individual does not have a current, valid Oregon license or certificate.....\$5,000; or
  - (B) Allowing an individual to continue practicing as a LPN, RN, NP, CRNA or CNS knowing that the individual does not have a current, valid Oregon license or certificate.....\$5,000.
- (l) Employing a LPN, RN, NP, CRNA or CNS without a procedure in place for checking the current status of that nurse's license or certificate to ensure that only those nurses with a current, valid Oregon license of certificate be allowed to practice nursing.....\$5,000; and
- (m) Supplying false information regarding conviction of a crime, discipline in another state, physical or mental illness/physical handicap, or meeting the practice requirement on an application for initial licensure or re-licensure, or certification or recertification.....\$5,000.

**Stat. Auth.: ORS 678.150**

**Stats. Implemented: 678.150, 678.117**

**851-045-0030, 004, 0050, 0060, 0070, 0080, 0090 and 0100 adopted 6/ 12/ 08**

**851-045-0000, 0005, 0010, 0015, 0016, 0020 and 0025 repealed 6/ 12/ 08**

**851-045-0015 amended 11/ 15/ 07**

**851-045-0025 amended 11/ 17/ 05**

**851-045-0015 amended 11/ 96, 4/ 2001 and 6/ 20/ 02**

**851-050-0000, 851-050-0131, 851-050-0145, 851-050-0155 and 851-050-0170 amended  
4/ 2001**

**851-045-0025 amended 2/ 14/ 02**