

GETTING TO KNOW YOUR LICENSING BOARD: *The North Carolina Board of Nursing at a Glance* (updated May 2018)

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“No person shall practice or offer to practice as a registered nurse or licensed practical nurse, or use the word ‘nurse’ as a title for herself or himself, or use an abbreviation to indicate that the person is a registered nurse or licensed practical nurse, unless the person is currently licensed as a registered nurse or licensed practical nurse...”§ 90-171.43.

Consider for a moment what healthcare would look like if the providers entrusted to care for your loved ones had no standard basic education requirements, no established scope of practice and no measures by which to remove an incompetent professional. Scary thought? It should be! Professional licensing boards exist solely to protect the public from harm by unscrupulous and incompetent persons engaging in practice. Citizens have the right to expect each professional licensing board to advocate for the public welfare in the execution of its duties. Licensing a professional sends a clear message to the public that the individual holding a license has satisfied necessary academic requirements and has met minimum entry-level standards of competency before being approved to practice in that profession. In addition, licensing assures the public of oversight of the professional discipline by holding

its members accountable for minimum standards of competency. The focus of licensing boards is different than that of professional organizations. It is a common misconception that professional regulatory boards are professional advocacy groups. Nurses should be aware that the mission of their regulatory board is public protection while the role of their professional organization is advocacy for the profession.

This article provides an overview of the North Carolina Board of Nursing’s (Board) structure, function and legal authority. Throughout the article specific statutes (laws) from the NC Nursing Practice Act (NPA) are cited as references. Further, the author provides “helpful tips” to give the reader additional supporting information on specific topics discussed herein.

In 1903, NC enacted the country’s first NPA for the purpose of regulating the practice of Nursing. These laws provide the foundation for every function and duty carried out by the Board. The NPA requires licensing of any person representing themselves as a Registered Nurse (RN) or a Licensed Practical Nurse (LPN) and defines the legal scope of practice for nurses practicing within the state [§90-171.20 (7)(8)]. The NPA laws are further clarified through NC Administrative Code Rules which are developed by the Board and provide the details necessary to support implementation of and adherence to the laws. (Both Laws and Rules are published on the Board website). Together laws and rules are designed to protect the public as described in the Board’s mission statement:

“The Mission of the North Carolina Board of Nursing is to Protect the Public by regulating the practice of Nursing.”

Each state has legislatively enacted an NPA. While there are variations in statutory language among the states or jurisdictions, the NPAs all have a common mission of public protection. A nurse may hold a single state license or a multi-state license. In some situations, a nurse may hold both.

The holder of a single state license is limited to practicing in the state in which the license was issued. A nurse holding a multi-state license issued by the home state of residence is authorized to practice in their home state AND in other states (“party states”) participating in the enhanced Nurse Licensure Compact (eNLC) without having to apply for a license in that state. Not all states participate in the eNLC however, over half the states are participating and number of states joining continues to increase.

A nurse holding a multi-state NC license is governed by and held accountable for the NPA of the state or jurisdiction where in which the patient or client is receiving care. The eNLC applies in a like manner to nurses practicing in NC on their PTP granted through a multi-state license issued by their home state of residence. A nurse changing the primary or home state of residence, is required to apply for licensure in the new home state. A nurse relocating to NC and declaring

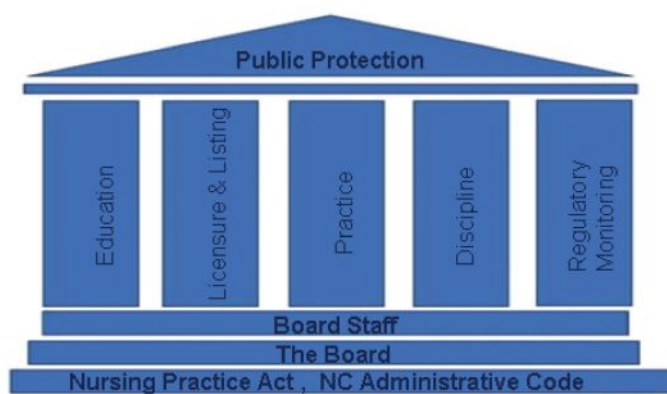
NC as the new primary or home state may practice for ninety (90) days before the former license becomes invalid.

Helpful tips: The NC NPA Laws and Rules are published on the Board's website under the tab Laws & Rules. General information on the eNLC, an updated version of the original Nurse Licensure Compact (NLC) implemented in 2018 is published on the Board's website under the tab Licensure & Listing: Enhanced Nurse Licensure.

Licensing Boards vary in size but are generally inclusive of members of the specific professional discipline and members of the public, unaffiliated with the profession. The NC NPA provides for the creation of an independent 14-member board [§90-171.21]. Members include 8 RNs; 3 LPNs and 3 public members appointed to serve by the Governor and the NC Legislature. The NC Board is recognized nationally as the only state board of nursing that elects its nursing (RN and LPN) members. Each year, the Board holds elections to fill vacancies occurring when a sitting RN/LPN's term has expired. Every RN and LPN holding a current license in NC has the opportunity to vote for members to fill anticipated vacancies. A list of our current Board Members may be found on the Board's website under the "Board Information" tab.

To support its many and varied duties, the Board employs a staff led by a Chief Executive Officer (CEO) [§90-171.24]. The CEO serves as liaison to the Board in daily operations and regulation of practice. Regulation is defined as the process of interpretation, implementation, and enforcement of laws, rules and policies designed to ensure minimum standards of nursing competency and public protection. The CEO oversees the staff in the implementation of the strategic plan and in supporting the functions of the Board.

There are 5 primary functions of the Board as depicted in the model:



North Carolina Board of Nursing Functions

The foundation for the existence of the Board and the authority for its functions and operations are grounded in the NPA with a clear legislative mandate for Public Protection.

EDUCATION

The Board establishes standards for pre-licensure nursing education programs and the qualifications for nursing faculty [§90-171.38]. Each request to develop a new program requires approval from the Board prior to operation. The approval process includes submission of an application providing evidence that the program can meet the minimum standards for pre-licensure education necessary to ensure their graduates have the education necessary to practice as an RN or as an LPN in a safe and competent manner. Following receipt of the application and supporting evidence, a site visit is conducted by designated Board staff before initial program approval is granted by the Board. A second site visit during the final semester of the program's curriculum leads to full approval status by the Board if all requirements are met. Once approved, all pre-licensure nursing programs are continuously monitored for quality and formally reviewed at least every eight (8) years, or sooner for non-compliance program issues. In situations where a program is unable to show evidence of meeting minimum standards, the Board holds the authority to place the program on warning status until such time as evidence is submitted to demonstrate correction of deficiencies. The Board publishes a list on its web-site of each pre-licensure program in the state along with their approval status. Trended scores on the National Council Licensure Examination (NCLEX) for RNs or PNs are one measure used by the Board in its ongoing efforts to monitor a program's quality. NCLEX results are published and available on the Board's website.

The Board frequently receives questions related to the requirements for a Refresher Course. A Board approved course is mandatory if the NC nursing license has been inactive, retired or lapsed for five years or more and the nurse has not been licensed in another jurisdiction in the last five (5) years. The nurse must satisfactorily complete the Refresher Course prior to reactivating or reinstating the NC license. The nurse must then apply for reinstatement within one year of completing the approved course. On the other hand, if the nurse has maintained an active NC license and had not been employed in a licensed position for an extended period of time, a Refresher course is not mandatory. Many nurses in this situation voluntarily seek this level of preparation prior to returning to active practice, however it is not required by the Board.

The Board also has the authority for granting approval of continuing education programs designed to enhance nursing practice by teaching skills not generally included in the basic educational preparation of the nurse (RN or LPN). A request for the implementation of such an educational program requires the requestor to demonstrate need and to show evidence of the quality of the curriculum, faculty and the practicum. Prior to granting approval, the Board will determine

that upon satisfactory completion of the educational program, the nurse can be expected to carry out those procedures in a safe and competent manner. Examples of such advanced skills include those which may be performed in an emergency situation by an RN during critical care transport; by an RN who

has completed the requirements for the Sexual Assault Nurse Examiner, or by an LPN Nurse who has demonstrated competency in selected advanced skills [§90-171.42].

The Board is the determining authority to identify those nursing care activities which may be delegated to

unlicensed personnel, regardless of title. The Nurse Aide I is educated to perform basic nursing skills and personal care activities. The Nurse Aide II is educated to perform more complex nursing skills with emphasis on sterile technique in elimination, oxygenation, and nutrition. The Board also establishes Medication Aide training program requirements to support safe medication administration and improve client, resident, and patient outcomes. It establishes standards for faculty and applicant requirements. Medication Aides must hold a NA I certificate in order to satisfy requirements for the Medication Aide certificate and listing on the registry. They are limited to performing only the technical tasks of medication administration in a skilled nursing facility (long term care).

It is important for employers to be knowledgeable of and to differentiate between the Board approved program and the Division of Health Services Regulation (DHSR) Medication Aide program (separate from the Board). The entry level education for the DHSR program is a high school diploma however some NAs may elect to complete the program. Upon successful completion of this DHSR program, the Medication Aide is limited to performing tasks in an Assisted Living facility.

Because there is variation in education and training requirements between the Board and the DHSR programs, NAs completing one may not cross-over and work as a Medication Aide with the other client population.

LICENSURE & LISTING

The Board requires initial entry to licensed practice through the standard National Council Licensure Examination (NCLEX) [§90-171.30]. Foreign graduates or graduates from other jurisdictions who have not completed the NCLEX may be considered for endorsement to NC when there is

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verification that requirements of the pre-licensure program were deemed to be equivalent to those required of NC and that in the opinion of the Board, the applicant is able to meet the minimum standards set forth in the NPA. Applicants for licensure are required to submit a criminal background check which is reviewed prior to issuance of the initial license [§90-171.48].

Following initial licensure, the Board requires a nurse to renew the license every two years (birth month). At the time of renewal, the nurse attests to meeting minimum continuing competency requirements and reports any adverse incidents, including but not limited to criminal charges or convictions which may have occurred since the date of last renewal [§90-171.34].

The division of Health Services Regulation (DHSR), a division of the NC Department of Health and Human Services has primary responsibility for “listing” of the Nurse Aide I (NA I) and Medication Aides (MA) on the respective registries. NA Is and Medication Aides are not licensed, rather they hold a certificate. Medication Aides are “listed” on both the Nurse Aide Registry as NA Is and the on the Medication Aide Registry with DHSR. The role of the Medication Aide is limited to long term care where they are supervised by a licensed nurse in the performance of their duties.

The NPA provides for a Nurse Aide II (NA II) option. Current NA Is completing a specific training program can be “listed” as NA II with the Board. The Board approves listed NA IIs to perform specific tasks beyond those skills approved in the basic NA I training program. Jurisdiction over NA disciplinary issues can be confusing. The responsibility for all disciplinary action and jurisdiction in all matters related to NAs (I and II) is addressed under the NA I listing status by DHSR rather than under

the NA II listing status by the Board.

The NPA requires Employers to verify the license status of a prospective new nurse [§90-171.43A] using the Board’s licensure verification system through www.ncbon.com. Verification of the NA II listing and renewal is also located under the Licensure & Listing

tab. The employer maintains ongoing accountability for assuring that each licensed or listed employee remains in current, active status throughout employment. To facilitate real-time notification of nurse license status changes, institutions are encouraged to take advantage of the National Council

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of State Boards of Nursing (NCSBN) licensure notification system (e-Notify for Institutions). This free service provides alerts regarding licensure and published discipline data. Another free service available for employers through the NCSBN is NURSYS Quick Confirm. This service, also free to employers facilitates a search of licensure history and status

in other states. Without verifying a compact license status through NURSYS the employer cannot be guaranteed that the license status in other jurisdictions is unencumbered. Both free services may be accessed through the Board website found under the tab: Licensure & Listing: Verify a License.

Helpful tips: It is the responsibility of every nurse to maintain a current address with the Board and to renew the license prior to its expiration. A nurse is in violation of the NPA by practicing without a valid license. The license expires the last day of the birth month every 2 years. While the nurse has until the last day of the month to complete the application, renewal will be delayed IF the nurse is audited or IF the application is incomplete. There is no grace period. The nurse must renew using the Nurse Gateway portal on the Board's web site located under the tab: Licensure & Listing.

Likewise, it is the responsibility of every NA II to maintain a current address and to renew their listing as a NA II (with the Board) and NA I (with DHSR).

PRACTICE

The Board, provides staff consultative services and education to nurses, employers, physicians, and others making an inquiry

regarding clinical practice issues or interpretation of the law and rules as they relate to the RN (including the APRN) or LPN scope of practice. The staff remains abreast of research and evolving nursing practice trends locally and nationally. A myriad of tools has been developed and is available to nurses and employers in guiding practice. These tools, grounded in best practice, laws, and rules include information on the scope of practice for the RN, APRN, LPN, Nurse Aide II and Medication Aides, Delegation Decision Trees, Position Statements, Nurse Practitioner Regulation including but not limited to Standards of Care for Opioid Prescribing and Joint Statements. A list of frequently asked questions (FAQs) is also available and is a helpful adjunct to the published materials.

Helpful tip: Decision Trees, Position Statements, Joint Statements and FAQ's are available on Board's website and found under the tab: Practice

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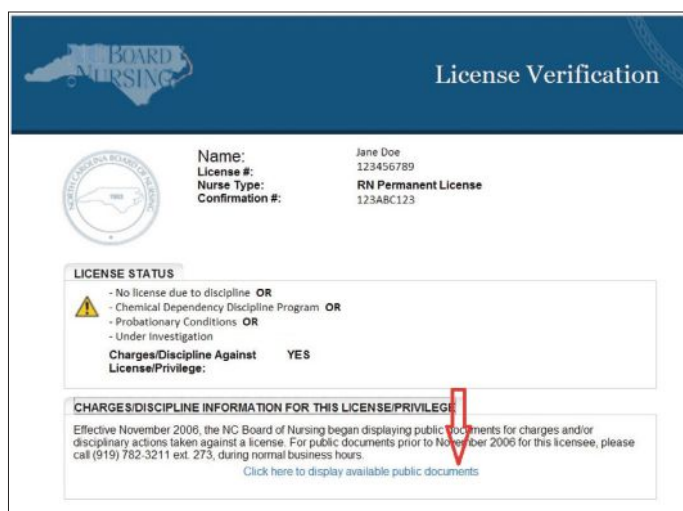
DISCIPLINE

“Any person who has reasonable cause to suspect misconduct or incapacity of a licensee or who has reasonable cause to suspect that any person is in violation of this Article... shall report the relevant facts to the Board... Any person making a report pursuant to this section shall be immune for any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the report was false” [§90-171.47].

Use of the Board’s Complaint Evaluation Tool (CET) is recommended in determining whether an incident is a reportable event. Board staff practice consultants are available to assist the employer in making the appropriate determination. Can the event be classified as normal human error? Is it indicative of unintentional risk-taking behavior? Could it be intentional risk-taking behavior? Or, is it deemed reckless behavior? The answers will determine reportable events from those able to be managed at an organizational level. In some cases, after consultation, the employer and the Board consultant reach an opinion that the most appropriate resolution in a matter is determined to be the nurse’s completion of a Practitioner Remediation Enhancement Program (PREP), a non-disciplinary resolution in a particular matter designed to address an issue with a nurse before it becomes a violation of the NPA and a reportable event. It should be noted that incidents related to confidentiality, fraud, theft, drug abuse, impairment on duty, drug diversion, failed drug screen, boundary issues, sexual misconduct, and mental/physical impairment are not appropriate for evaluation using the CET. These events/issues are classified as professional misconduct, not practice incidents or events, and **MUST** be reported to the Board. All complaints received are reviewed and analyzed. Board staff investigators conduct inquiries into reports submitted from the public, patients, employers, healthcare organizations, law enforcement or from other states alleging a violation of the NPA. If, following initial review of a complaint, there is information suggesting a potential violation of the NPA, a formal investigation is initiated. Investigators evaluate the infraction and assess the level of the nurse’s culpability in the matter and the risk to the public as a result of the reported behavior.

The Board has the authority to take action on a license when it determines that there is evidence that the nurse is in violation of the NPA [§90-171.37]. The nurse is advised of their rights at the onset of an investigation and informed that reaching a resolution in the matter could take from weeks to several months. In general, while a nurse is under investigation, the license remains active although it may be flagged to denote the investigation is underway (see licensure verification screen shot below). Prior to action against the license, the nurse is granted an opportunity to be interviewed and to review the evidence in the matter. The role of the investigator is to

establish the facts in the case. They are authorized, after consultation with a Board staff attorney, to communicate with the nurse and offer resolutions when it has been determined that the incident reported constitutes a violation of the NPA. Options for resolution may be disciplinary and published or non-disciplinary and non-published. In situations where there is published discipline, including a request to voluntarily surrender during or immediately following an investigation; the license has a permanent flag displayed when the license is verified through the Board’s license verification system. Documents related to the violation and subsequent action are also published on the website (see screen shot below) and all public documents should be reviewed by the prospective employer (note arrow in screen shot pointing to “click here to display available public documents”).



This sample screen shot depicts a “caution flag” which is displayed on the license of a nurse whose license is suspended; encumbered in a drug monitoring program or probation; or who may be under investigation. Public documents related to Board action can be viewed by clicking the link in “Charges/Discipline Information for this License/Privilege.”

Following loss of a license through voluntary surrender or suspension for a disciplinary matter, the nurse is required to petition the Board for reinstatement, a process which requires documented evidence to support that he/she is safe to return to practice. It should be noted that a nurse may not request to “retire” the license or “lapse” the license while there is a matter under investigation with the Board. At the conclusion of an investigation, if it is determined that there is no evidence to substantiate the allegation, the case may be closed. On the other hand, if the outcome of the investigation results in disciplinary action, the Board reports such action federally to the National Council of State Boards of Nursing (NCSBN) and

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the National Practitioner Data Bank (NPDB); the Office of Inspector General (OIG), and at the state level to the DHSR. Consistent with the Board's mission, any and all outcomes of investigations are thoughtfully processed with the goal of public safety and quality improvement. Once any disciplinary action taken by the Board has been resolved, the caution flag on the verification system will be removed. The system will continue to reflect that there has been prior disciplinary action and all public documents related to the action will continue to be available to anyone verifying the license.

Some criminal convictions may result in action against the nursing license. [§90-171.48 (a)(1)(2)]. Driving While Impaired (DWI) is the most commonly reported conviction. At the time of license renewal, nurses are required to report any criminal convictions (felony or misdemeanor) and/or any pending criminal charges that have not been previously reported to the Board. Failure to disclose this information or falsely answering the questions asked is considered falsification of the application for initial licensure or renewal. Pre-licensure convictions may result in denial of licensure until the applicant has petitioned the Board and appears before a licensure panel.

Helpful tips: Through its research on the subject, Board staff has developed a Complaint Evaluation Tool (CET) to assist the nurse leader in evaluating practice events or errors. Staff has also researched and developed an instruction booklet called "Just Culture in Nursing Regulation" (Burhans, Chastain, & George, 2012). These resources provide valuable education on complaint evaluation and examples of reportable and non-reportable events for licensees and

for employers. This booklet and the CET are available at no cost on the Board's website under tab: Discipline and Compliance. Employer complaint. Information on the PREP program is also available on the Board's website under tab: Discipline and Compliance: Practitioner Remediation. Licensee Rights during an investigation and a description of the investigation process are published on the Board's website under tab: Discipline and Compliance: Investigation & Resolution. Information on Charges/Disciplinary Action, is available on the licensure verification by clicking on the link: "Click here to display available public documents"

REGULATORY MONITORING

"The Board is empowered to establish programs for aiding in the recovery and rehabilitation of nurses who experience chemical addiction or abuse or mental or physical disabilities and programs for monitoring such nurses for safe practice: establish programs for aiding in the remediation of nurses who experience practice deficiencies [§90-171.23 (b)(18)(a)].

When the Board has determined that a nurse is in violation of the NPA, appropriate measures are employed to enhance competency and quality of nursing practice as they relate to the mission of public protection. Some of these measures require close monitoring of the individual through a legally binding Consent Order. Consent Orders may be published or a non-published. For example, nurses diagnosed with a substance use disorder/chemical dependence are typically offered participation in a program through a non-published Consent Order. They are monitored by Regulatory Compliance staff for a period of 3 to 5 years. Some nurses in violation of the NPA may require monitoring for a period of 1 year of employment. Yet, others may simply be required to complete mandatory training/education program and show evidence of satisfactory completion of the program. Regulatory Compliance monitoring staff members are assigned to engage the nurse at the time they enter into the Consent Order with the Board and until such time as the conditions of the Consent Order are satisfied. The Regulatory Compliance monitoring staff members serve as the primary contact for the nurse and the interface between the individual, the employer and the Board for the duration of the period of the Order.

Helpful tip: The National Council of State Boards of Nursing provides resources related to Substance Use Disorders in Nursing; www.ncssbn.org

The Board exists to uphold its mission of Public Protection. Through statutory authority, the public places its trust and confidence in professional regulatory boards. The public deserves assurance that the standards established to assure their safety, well-being, and health are upheld. The citizens of North

Carolina can be assured that in the execution of their fiduciary responsibilities, Board of Nursing members avoid conflicts of interest and effectively serve in the interest of the Public. From establishing nursing education standards, setting minimum standards of competence, and regulating professional practice, through enforcement of the NPA and Rules, all functions, duties and actions taken by the Board are done so with this mission in mind.

OUTCOMES

- Describe the primary functions of the Board.
- Discuss the use of the Nursing Practice Act in evaluating nursing practice.
- Develop skills to navigate the Board's web site for access to resources and information.

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Getting to Know Your Licensing Board: the North Carolina Board of Nursing at a Glance

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Read the article and on-line reference documents (if applicable). There is not a test requirement, although reading for comprehension and self-assessment of knowledge is encouraged.

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