

The North Carolina Board of Nursing and
the North Carolina State Opioid Treatment Authority within the
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of
the North Carolina Department of Health and Human Services

JOINT POSITION STATEMENT

North Carolina Board of Nursing and the North Carolina State Opioid Treatment Authority

Effective Date: January 27, 2014
Revised/Effective: January 1, 2021

PURPOSE

The North Carolina Board of Nursing (NCBON) and the NC State Opioid Treatment Authority (NC SOTA) within the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMHDDSAS) of the North Carolina Department of Health and Human Services (DHHS) have collaborated in the development of this revision to the Joint Statement on Nursing Scope of Practice in North Carolina Licensed Opioid Treatment Programs (OTPs).

This statement is intended to provide clarification of the relevant North Carolina laws and regulations which govern nursing Scope of Practice and the delivery of safe patient care in North Carolina Opioid Treatment Programs licensed under 10A NCAC 27G and registered under 10A NCAC 26E. The NCBON and the NC SOTA have a shared responsibility to ensure that safe and professional OTP services are appropriately provided to NC patients and to the communities in which they receive treatment.

BACKGROUND

The North Carolina Board of Nursing is empowered to administer the State of North Carolina Nursing Practice Act (NPA) and its regulations and to issue its interpretations of this Act. (G.S. 90, Article 9A).

The North Carolina State Opioid Treatment Authority is designated with responsibilities for ensuring compliance with State Authority Regulations in 10A NCAC 27G as follows: "Each facility shall be approved by the North Carolina State Authority for Opioid Treatment, DMH/DD/SAS, which is the person designated by the Secretary of Health and Human Services to exercise the responsibility and authority within the state for governing the treatment of addiction with an opioid drug, including program approval, for monitoring compliance with the regulations related to scope, staff, and operations, and for monitoring compliance with Section 1923 of P.L. 102-321." (10A NCAC 27G .3604)

NCBON and NC SOTA consultation, education and technical assistance activities related to OTP patient health and safety have resulted in the identification of nursing practices that are beyond the scope of law and regulation in these programs, potentially contributing to serious medication errors, untoward incidents, and other unacceptable care anomalies. The practice of nursing in the OTP setting is a complex system of care which requires that all nurses understand the parameters of their professional

roles. The NC SOTA has identified and documented through site visits a widespread pattern of recurring inappropriate practices related to nursing Scope of Practice in OTP settings.

The NCBON has received communications related to Licensed Practical Nurse (LPN) and Registered Nurse (RN) practices in a number of OTPs. There is concern that OTP employers and supervisors, including OTP Sponsors, Medical Directors, Program Physicians, Program Directors, and Nursing Supervisors, may not fully understand the appropriate use of nurses within their legal Scope of Practice parameters in North Carolina. As a result, nurses have been asked to accept assignments that exceed their Scope of Practice.

The North Carolina Nursing Practice Act [G.S. 90-171.20 (7) and (8)] and the North Carolina Administrative Code [21 NCAC 36 .0224 and .0225] define RN and LPN scope of practice. This legally defined Scope of Practice cannot be expanded by an employer, a physician, or any other professional, and are consistently applicable across all practice settings.

Licensed nurses (RNs and LPNs) are responsible and accountable for practicing within their appropriate Scope of Practice. If they fail to do so, they are in violation of the NPA and NCAC and subject to disciplinary action (21 NCAC 36 .0217). All nurses are required to meet their professional responsibility by complying with the reporting requirements mandated by the NPA (NC G.S. 90-171.47) if they have reason to believe that the NPA has been violated. Nurses who accept assignments that exceed their legally defined Scope of Practice are not fulfilling their patient care and professional responsibilities.

RN SCOPE OF PRACTICE	LPN SCOPE OF PRACTICE
1. The scope of Registered Nurse practice is identified as independent and comprehensive.	1. Licensed Practical Nurse practice is always dependent and directed and is not independent in any setting, including OTPs;
2. RN practice does not require direction or supervision by another licensed clinician.	2. LPNs must have supervision by a Registered Nurse, Physician, Nurse Practitioner, or Physician Assistant continuously available* for direction, guidance and support. The degree of supervision is determined by variables outlined in 21 NCAC 36 .0225
3. RN scope of practice includes the assignment of nursing activities to other RNs, LPNs, and other assistive personnel.	3. An LPN shall accept only those assigned nursing activities and responsibilities, as defined in Rule, that the licensee can safely perform, as determined by practice setting variables outlined in 21 NCAC 36 .0225
4. The RN independently engages in assessment, planning and implementation of nursing interventions and prescribed treatments for an individual, group, or community; as well as evaluates responses to nursing care and treatment, and collaborates with others as needed.	4. LPNs <u>participate</u> in patient assessment, planning, and evaluation but <u>can never independently perform these nursing activities.</u>

RN Scope of Practice	LPN Scope of Practice
5. RN practice includes developing and initiating a plan of care by identifying client needs, prioritizing nursing diagnoses and selecting or modifying nursing interventions.	5. LPNs deliver nursing care according to an established health care plan and as assigned by a Registered Nurse (RN), Physician, Nurse Practitioner (NP), or Physician Assistant (PA).
6. The management and administration of nursing services is the responsibility of the RN.	6. Scope of Practice of the LPN does not include management and administration of nursing services. An LPN serving in a lead nurse role is solely responsible for providing clinic administrative services.

**When the supervising Registered Nurse, Physician, Nurse Practitioner, or Physician Assistant is not on-site, an on-call Registered Nurse, Physician, Nurse Practitioner or Physician Assistant must be continuously available to the LPN whenever providing patient care. Continuous availability includes telephone, video conferencing, text message, or email, and also requires the ability to physically arrive and be present on-site in a timely manner as much as needed to address patient assessment and care needs. Supervision includes oversight of clinical performance and responsibility for periodic formal evaluation of LPN clinical practice, with documentation of same.*

LPN PRACTICE IMPLICATIONS IN OTPs

1. LPNs may document both objectively observed signs and symptoms and subjective opioid withdrawal symptoms reported by clients, as part of the Clinical Opioid Withdrawal Scale (COWS).
2. LPNs may implement clearly written Physician, Nurse Practitioner, or Physician Assistant standing orders, when no further medical judgment is required, per the NC Board of Nursing Position Statement titled "Standing Orders".
3. Assessments and judgments may exceed LPN Scope of Practice. Examples which exceed LPN Scope of Practice include, but are not limited to:
 - a. LPN scope of practice does not include assessments and judgments in the initial induction phase of care;
 - b. LPN scope of practice does not include assessments and judgments in determining patient impairment and the need to withhold a medication dose;
 - c. LPN scope of practice does not include assessments and judgments resulting from data collection activities performed by the LPN as part of the Clinical Opioid Withdrawal Scale (COWS).
4. Assessments and professional judgments related to patient induction and patient impairment, including withholding a medication dose, require one of the following:
 - a. Direct, in-person Physician, Nurse Practitioner, or Physician Assistant assessment and orders; OR
 - b. Direct communication of patient signs and symptoms from an RN or LPN to a Physician, Nurse Practitioner, or Physician Assistant to obtain specific verbal or electronic orders for induction; to withhold doses in the presence of impairment; and to direct next steps; OR

- c. Direct RN assessment and professional judgment within the independent RN Scope of Practice and using appropriate Physician, Nurse Practitioner, or Physician Assistant standing orders based on objective and subjective patient signs and symptoms.
5. LPN consultation with a registered, certified, or licensed Addictions Professional is not an acceptable alternative to required consultation with a Registered Nurse, Physician, Nurse Practitioner, or Physician Assistant to determine physiological impairment or withdrawal, or to recommend withholding of medication doses or dosage adjustments. It is outside of the scope of practice of a registered, certified or licensed Addictions Professional in North Carolina to conduct medical or nursing assessments of patients, or to direct decisions related to medication ordering, administration, or withholding.
 6. Dispensing of medications as defined in the North Carolina Pharmacy Practice Act in G.S. 90-85.3 is beyond the legal scope of practice for both RNs and LPNs. Such nurses are allowed to supply properly ordered methadone or other approved medications per 10A NCAC 26E .0306 Supplying of Methadone in Treatment Programs by RN in the Rules and Regulations for the North Carolina Controlled Substances Act.
 7. LPNs may be subject to NCBON disciplinary action for exceeding Scope of Practice.

RECOMMENDATIONS SUPPORTIVE OF LPN SCOPE OF PRACTICE IN OTPs

The proposed recommendations do not have the effect of law and are not mandated by the NCBON. However, the NCBON and NCSOTA jointly recommend that:

1. Programs provide Scope of Practice education for all staff, including RNs, LPNs, Physicians, Nurse Practitioners, Physician Assistants, (registered, certified, and licensed) Addictions Professionals, Licensed Behavioral Health Professionals, and Qualified Professionals.
2. Programs must either:
 - a. Direct at least one RN at each OTP site to supervise LPN practice and to perform all assessments, planning and evaluations requiring RN-level practice and judgment (e.g., induction and impairment/medication dose withholding); OR
 - b. Provide an Approved Plan for a comparable licensed medical or nursing alternative presence to an RN presence at each site through regular, consistent Physician, Nurse Practitioner, or Physician Assistant presence on-site, to assume responsibility for patient assessment planning, and evaluation, and to provide continuous supervisory availability for LPN practice, as approved in writing by the designated OTP Medical Director.
3. Programs develop and implement separate job descriptions for RNs and LPNs, appropriately delineating responsibilities consistent with NC legal Scope of Practice which:
 - a. Specify overall RN authority and responsibility for patient care;
 - b. Clearly delineate RN supervisory authority and responsibility in relation to LPN practice; and
 - c. Include differentiated core competencies.
4. Programs eliminate the term “dispenses” medication from RN and LPN job descriptions, and instead use the term “supplies” medication, or use the phrase “supplies and administers” medication.
5. Programs assure that all standing orders and protocols of a Physician, Nurse Practitioner, or Physician Assistant implemented by RNs and LPNs meet all criteria required by the NCBON (see Position Statement Resources below) to ensure that nurses are not practicing beyond their legal scope. Complete orders do not require further medical decisions for implementation.

6. Programs assure that all individualized orders of a Physician, Nurse Practitioner, or Physician Assistant be written with attention to the composition of nursing staff employed within their organization and with attention to the Scope of Practice of LPNs and RNs.

RESOURCES

- G.S. 90-171.20 (7) and (8) Definitions
- G.S. 90-171.37 Disciplinary Authority
- G.S. 90-171.47 Reporting Violations of the NPA

- 21 NCAC 36 .0224 – Components of Practice for the RN
- 21 NCAC 36 .0225 – Components of Practice for the LPN
- 21 NCAC 36 .0217 – Investigations; Disciplinary Hearings


NCBON Position Statements available at www.ncbon.com – Nursing Practice – Position Statements:

- Scope of Practice Decision Tree for the RN and LPN
- LPN Scope of Practice – Clarification: Position Statement for LPN Practice
- RN Scope of Practice – Clarification: Position Statement for RN Practice
- RN and LPN Scope of Practice: Components of Nursing Practice Comparison Chart
- Accepting an Assignment
- Standing Orders

NCBON Legal Scope of Practice Online Course available at www.ncbon.com


APPROVAL, REVIEW, AND REVISION OF JOINT STATEMENT ON NURSING SCOPE OF PRACTICE IN NORTH CAROLINA LICENSED OPIOID TREATMENT PROGRAMS (OTPs)

This Revised Joint Statement of Nursing Scope of Practice in North Carolina Licensed Opioid Treatment Programs (OTPs) shall have an effective date of approval of January 1, 2021, as indicated by the affixed signatures of all parties below and shall be subject to period review and revision as needed.



Crystal Tillman, DNP, RN, CNP, FRE
Chief Executive Officer
North Carolina Board of Nursing

Date: 12/15/2020



Smith Worth, LCSW, LCAS
Administrator
North Carolina State Opioid Treatment Authority, DMHDDSAS
NC Department of Health and Human Services

Date: 12/14/2020