

WSR 21-20-058

PROPOSED RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed September 28, 2021, 3:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-11-044.

Title of Rule and Other Identifying Information: WAC 246-840-010, 246-840-840, and 246-840-850, nursing technicians. The nursing care quality assurance commission (commission) is proposing amendments to nursing technician rules to provide practice opportunities to licensed practical nursing (LPN) students.

Hearing Location(s): On November 12, 2021, at 1:15 p.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the commission will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. You can register in advance for this meeting at <https://us02web.zoom.us/join/91908206934> or <https://us02web.zoom.us/join/join/91908206934>.
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Date of Intended Adoption: November 12, 2021.

Submit Written Comments to: Shad Bell, P.O. Box 47864, Olympia, WA 98504, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-4738, by October 29, 2021.

Assistance for Persons with Disabilities: Contact Shad Bell, phone 360-236-4711, fax 360-236-4711, TTY 711, email Shad.Bell@doh.wa.gov, by October 29, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission is proposing amendments to WAC 246-840-010, 246-840-840, and 246-840-850. The commission proposes amending the definition of nursing technician and the nursing technician rules by providing LPN students the same opportunity as registered nurse (RN) students to obtain a nursing technician credential.

Reasons Supporting Proposal: The commission's legislative panel recently completed a review of the benefits of apprenticeship programs and opportunities to improve transition into the workforce for LPN students. After the review, the panel reported to the commission its suggestion to begin the rule-making process to consider granting LPN students the same opportunity as RN students to obtain a nursing technician credential. The commission is amending WAC 246-840-010, 246-840-840, and 246-840-850. The commission believes that granting the same opportunity to LPN students could provide a positive impact on the students and allow for a better transition into the workforce by allowing them to gain valuable judgment and knowledge through expanded work opportunities.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.110, and 18.79.340.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state nursing care quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Shad Bell, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4711; Enforcement: Catherine Woodard, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4757.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Shad Bell, P.O. Box 47864, Olympia, WA 98504, phone 360-236-4711, fax 360-236-4738, TTY 711, email Shad.Bell@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules do not impact businesses, the proposed rules only impact provider licensing requirements.

September 28, 2021
Paula R. Meyer, MSN, RN, FRE
Executive Director
Nursing Care Quality Assurance Commission

OTS-2755.3

AMENDATORY SECTION (Amending WSR 16-08-042, filed 3/30/16, effective 4/30/16)

WAC 246-840-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced clinical practice" means practicing at an advanced level of nursing in a clinical setting performing direct patient care.

(2) "Advanced nursing practice" means the delivery of nursing care at an advanced level of independent nursing practice that maximizes the use of graduate educational preparation, and in-depth nursing knowledge and expertise in such roles as autonomous clinical practitioner, professional and clinical leader, expert practitioner, and researcher.

(3) "Advanced registered nurse practitioner (ARNP)" is a registered nurse (RN) as defined in RCW 18.79.050, 18.79.240, 18.79.250, and 18.79.400 who has obtained formal graduate education and national specialty certification through a commission approved certifying body in one or more of the designations described in WAC 246-840-302, and who is licensed as an ARNP as described in WAC 246-840-300. The designations include the following:

- (a) Nurse practitioner (NP);
- (b) Certified nurse midwife (CNM);
- (c) Certified registered nurse anesthetist (CRNA); and
- (d) Clinical nurse specialist (CNS).

(4) "Associate degree registered nursing education program" means a nursing education program which, upon successful completion of course work, that includes general education and core nursing courses that provide a sound theoretical base combining clinical experiences with theory, nursing principles, critical thinking, and interactive skills, awards an associate degree in nursing (ADN) to prepare its graduates for initial licensure and entry level practice as an RN.

(5) "Bachelor of science degree registered nursing education program" means a nursing education program which, upon successful completion of course work taught in an associate degree nursing education

program, as defined in subsection (28) of this section, plus additional courses physical and social sciences, nursing research, public and community health, nursing management, care coordination, and the humanities, awards a bachelor of science in nursing (BSN) degree, to prepare its graduates for a broader scope of practice, enhances professional development, and provides the nurse with an understanding of the cultural, political, economic, and social issues that affect patients and influence health care delivery.

(6) "Certifying body" means a nongovernmental agency using predetermined standards of nursing practice to validate an individual nurse's qualifications, knowledge, and practice in a defined functional or clinical area of nursing.

(7) "Client advocate" means a licensed nurse who actively supports client's rights and choices, including the client's right to receive safe, high quality care, and who facilitates the client's ability to exercise those rights and choices by providing the client with adequate information about their care and options.

(8) "Commission" means the Washington state nursing care quality assurance commission.

(9) "Competency" means demonstrated knowledge, skill and ability in the practice of nursing.

(10) "Conditional approval" is the approval given a nursing education program that has not met the requirements of the law and the rules of the commission. Conditions are specified that must be met within a designated time to rectify the deficiency.

(11) "Dedicated education unit" means a clinical learning experience within a health care facility, as part of the curriculum of a nursing education program.

(12) "Delegation" means the licensed nurse transfers the performance of selected nursing tasks to competent individuals in selected situations. The nurse delegating the task is responsible and accountable for the nursing care of the client. The nurse delegating the task supervises the performance of the unlicensed person. Nurses must follow the delegation process following the RCW 18.79.260. Delegation in community and in-home care settings is defined by WAC 246-840-910 through 246-840-970.

(13) "Distance education" or "distance learning" means instruction offered by any means where the student and faculty are in separate physical locations. Teaching methods may be synchronous, where the teacher and student communicate at the same time, or asynchronous, where the student and teacher communicate at different times, and shall facilitate and evaluate learning in compliance with nursing education rules.

(14) "Full approval" of a nursing education program is the approval signifying that a nursing program meets the requirements of the law and the rules of the commission.

(15) "Good cause" as used in WAC 246-840-860 for extension of a nurse technician registration means that the nurse technician has had undue hardship such as difficulty scheduling the examination through no fault of their own; receipt of the examination results after thirty days after the nurse technician's date of graduation; or an unexpected family crisis which caused him or her to delay sitting for the examination. Failure of the examination is not "good cause."

(16) "Good standing" as applied to a nursing technician, means the nursing technician is enrolled in a registered nursing program or licensed practical nursing program approved by the commission and is successfully meeting all program requirements.

(17) "Health care professional" means the same as "health care provider" as defined in RCW 70.02.010(18).

(18) "Home state" is defined as where the nursing education program has legal domicile.

(19) "Host state" is defined as the state jurisdiction outside the home state where a student participates in clinical experiences or didactic courses.

(20) "Immediately available" as applied to nursing technicians, means that an RN who has agreed to act as supervisor is on the premises and is within audible range and available for immediate response as needed which may include the use of two-way communication devices which allow conversation between the nursing technician and an RN who has agreed to act as supervisor.

(a) In a hospital setting, the RN who has agreed to act as supervisor is on the same patient care unit as the nursing technician and the patient has been assessed by the RN prior to the delegation of duties to the nursing technician.

(b) In a nursing home or clinic setting, an RN who has agreed to act as supervisor is in the same building and on the same floor as the nursing technician and the patient has been assessed by the RN prior to the delegation of duties to the nursing technician.

(21) "Initial approval" of nursing education program is the approval status conferred by the commission to a new nursing program based on its proposal prior to the graduation of its first class.

(22) "Licensed practical nurse (LPN)" is a nurse licensed as defined in RCW 18.79.030(3), with a scope of practice defined in RCW 18.79.020 and 18.79.060.

(23) "Limited educational authorization" is an authorization to perform clinical training when enrolled as a student through a commission approved refresher course. This authorization does not permit practice for employment.

(24) "Minimum standards of competency" means the knowledge, skills, and abilities that are expected of the beginning practitioner.

(25) "National nursing education accreditation body" means an independent nonprofit entity, approved by the United States Department of Education as a body that evaluates and approves the quality of nursing education programs within the United States and territories.

(26) "Nontraditional program of nursing" means a school that has a curriculum which does not include a faculty supervised teaching and learning component in clinical settings.

(27) "Nursing education program administrator" is an individual who has the authority and responsibility for the administration of the nursing education program.

(28) "Nursing education program" means a division or department within a state supported educational institution or other institution of higher learning, charged with the responsibility of preparing nursing students and nurses to qualify for initial licensing or higher levels of nursing practice.

(29) "Nursing faculty" means an individual employed by a nursing education program who is responsible for developing, implementing, evaluating, updating, and teaching nursing education program curricula.

(30) "Nursing technician" means a nursing student preparing for RN or LPN licensure who meets the qualifications for licensure under RCW 18.79.340 who is employed in a hospital licensed under chapter 70.41 RCW or a nursing home licensed under chapter 18.51 RCW, or clinic. The nursing student must be in a nursing educational program in

the United States or its territories that is approved by the state or territorial nursing regulatory authority and recognized in the list of approved nursing education programs using the National Council Licensure Examination-RN or National Council Licensure Examination-PN. Approved nursing education programs do not include nontraditional schools as defined in subsection ((-27-)) (26) of this section.

(31) "Philosophy" means the beliefs and principles upon which a nursing education program curriculum is based.

(32) "Practical nursing education program" means a nursing education program which, upon successful completion of course work that includes core nursing course to provide a sound theoretical base combining clinical experiences with nursing principles, critical thinking, and interactive skills for entry level practical nursing, awards a certificate or degree that the graduate is prepared for interdependent practice to prepare a practical nurse for interdependent practice as an LPN.

(33) "Registered nurse" or "RN" is a licensed nurse as defined in RCW 18.79.030(1), 18.79.040, 18.79.240, and 18.79.260.

(34) "Supervision" of licensed or unlicensed nursing personnel means the provision of guidance and evaluation for the accomplishment of a nursing task or activity with the initial direction of the task or activity; periodic inspection of the actual act of accomplishing the task or activity; and the authority to require corrective action.

(a) "Direct supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is on the premises, is quickly and easily available, and has assessed the patient prior to the delegation of the duties.

(b) "Immediate supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is on the premises, is within audible and visual range of the patient, and has assessed the patient prior to the delegation of duties.

(c) "Indirect supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is not on the premises but has given either written or oral instructions for the care and treatment of the patient and the patient has been assessed by the registered nurse prior to the delegation of duties.

(35) "Traditional nursing education program" means a program that has a curriculum which includes a faculty supervised teaching and learning component in clinical settings.

[Statutory Authority: RCW 18.79.050, 18.79.110, and 18.79.160. WSR 16-08-042, § 246-840-010, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 18.79.110 and 2012 c 153. WSR 13-15-064, § 246-840-010, filed 7/15/13, effective 8/15/13. Statutory Authority: RCW 18.79.010 and 18.79.110. WSR 10-24-047, § 246-840-010, filed 11/24/10, effective 1/1/11. Statutory Authority: RCW 18.79.110. WSR 08-11-019, § 246-840-010, filed 5/12/08, effective 6/12/08. Statutory Authority: Chapter 18.79 RCW and 2003 c 258. WSR 04-13-053, § 246-840-010, filed 6/11/04, effective 6/11/04. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-840-010, filed 2/13/98, effective 3/16/98. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-010, filed 6/18/97, effective 7/19/97.]

AMENDATORY SECTION (Amending WSR 13-15-064, filed 7/15/13, effective 8/15/13)

WAC 246-840-840 Nursing technician. The purpose of the nursing technician credential is to provide additional work related opportunities for students enrolled in an LPN, ADN, or BSN program, within the limits of their education, to gain valuable judgment and knowledge through expanded work opportunities.

(1) The nursing technician is as defined in WAC 246-840-010(~~((18))~~) (30).

(2) The nursing technician shall have knowledge and understanding of the laws and rules regulating the nursing technician and shall function within the legal scope of their authorization under chapter 18.79 RCW and shall be responsible and accountable for the specific nursing functions which they can safely perform as verified by their nursing program.

(3) The nursing technician shall work directly for the hospital, clinic or nursing home and may not be employed in these facilities through a temporary agency.

[Statutory Authority: RCW 18.79.110 and 2012 c 153. WSR 13-15-064, § 246-840-840, filed 7/15/13, effective 8/15/13. Statutory Authority: Chapter 18.79 RCW and 2003 c 258. WSR 04-13-053, § 246-840-840, filed 6/11/04, effective 6/11/04. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-840, filed 6/18/97, effective 7/19/97.]

AMENDATORY SECTION (Amending WSR 04-13-053, filed 6/11/04, effective 6/11/04)

WAC 246-840-850 Use of nomenclature. (1) Any person who meets the definition of nursing technician under WAC 246-840-010(~~((21))~~) (30) shall use the title nursing technician.

(2) No person may practice or represent oneself as a nursing technician by use of any title or description of services without being registered under chapter 18.79 RCW, unless otherwise exempted by chapter 18.79 RCW.

[Statutory Authority: Chapter 18.79 RCW and 2003 c 258. WSR 04-13-053, § 246-840-850, filed 6/11/04, effective 6/11/04. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-850, filed 6/18/97, effective 7/19/97.]