

## WSR 22-15-078

## PROPOSED RULES

## DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed July 18, 2022, 12:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-01-002.

Title of Rule and Other Identifying Information: WAC 246-840-300 ARNP scope of practice, 246-840-700 Standards of nursing conduct or practice, and 246-840-710 Violations of standards of nursing conduct or practice. The nursing care quality assurance commission (commission) is proposing amendments to WAC 246-840-300 to create consistency with national advanced registered nurse practitioners (ARNP) standards, WAC 246-840-700 and 246-840-710 to update gender pronouns for registered nurses (RNs) and licensed practical nurses (LPNs), and other housekeeping and grammatical changes.

Hearing Location(s): On September 9, 2022, at 1:15 p.m. The hearing will take place at the Spokane Convention Center in Room 302AB, located at 322 North Spokane Falls Court, Spokane, WA 99201. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the commission will require all in-person attendees to wear masks.

If attending virtually, you can register in advance for this meeting at <https://us02web.zoom.us/meeting/register/tZ0lduyupz0pE9bqEgWTxcL-S2XcNQJbylDC>.

Date of Intended Adoption: September 9, 2022.

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 August 26, 2022.

Assistance for Persons with Disabilities: Contact Shad Bell, phone 360-236-4711, fax 360-236-4738, TTY 711, email [NCQAC.rules@doh.wa.gov](mailto:NCQAC.rules@doh.wa.gov), by August 26, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed amendments to WAC 246-840-300, 246-840-700, and 246-840-710 introduce new and revised language that clarify the ARNP scope of practice and update gender pronouns.

Proposed amendments to WAC 246-840-300 strengthen the ARNP scope of practice rules by more fully supporting the ARNP role, remaining consistent with current ARNP national standards and incorporating more inclusive language. These proposed changes will allow the ARNP to provide services for which the individual is qualified and has appropriate education and competence. The proposed amendments also eliminate the need to list specific topics or procedures, such as medical acupuncture, within the scope of practice rules by incorporating language that more accurately represents the evolving role of the ARNP.

Proposed amendments to WAC 246-840-700 and 246-840-710 include gender pronoun changes that replace "he/she" with "they," as well as "his/her" with "their" and "him or herself" with "themselves."

Reasons Supporting Proposal: Proposed amendments to WAC 246-840-300 strengthen the current rule language by providing clarification and consistency with national ARNP standards. The proposed rule amendments will reduce barriers and provide clarification for ARNP scope of practice. Meeting the changing needs of residents of Washington state requires continuous education, training, and the provision of new procedures as appropriate. Clarification of this language will

strengthen the scope of practice rules for ARNPs so they can more nimbly respond to a rapidly changing practice environment.

Proposed amendments to WAC 246-840-700 and 246-840-710 will remove specific gender pronouns and introduce more inclusive language.

Background: The commission received a petition on April 3, 2018, from Representative Eileen Cody citing concerns about Nursing Commission Advisory Opinion (NCAO) 12.00 Medical Acupuncture: Scope of Practice for ARNPs, dated January 12, 2018. The petition requested the commission open rules to provide additional interested party involvement and enforceable guidelines. It is the commission's decision to not include specific topics or procedures, such as medical acupuncture, in nursing scope of practice rules due to the ever-evolving practice environment of nurses and the timely process it takes for specific rule changes, but rather issue specific advisory opinions on these topics to provide guidance and clarification. Advisory opinions offer the commission's interpretation of rule and are not enforceable. In response to Representative Cody's petition and the commission's recognition of the need for rule clarification, the commission voted at their May 11, 2018, meeting to open the ARNP scope of practice rules to further discuss concerns regarding nursing scope of practice and practice standards.

Since receiving Representative Cody's petition in 2018, the commission has provided multiple opportunities for interested party comment, input and discussion at open public meetings. Many of the comments and recommendations presented to the commission have been incorporated into the proposed language.

The commission also received several comments regarding the NCAO 12.00 Medical Acupuncture advisory opinion. The commission intends to update the advisory opinion with current and modern information.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.110, and 18.79.250.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

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 98504-7864, 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.

July 18, 2022  
Paula R. Meyer, MSN, RN, FRE  
Executive Director  
Nursing Care Quality Assurance Commission

OTS-3671.2

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

**WAC 246-840-300 ARNP scope of practice.** The scope of practice of a licensed ARNP is as provided in RCW 18.79.250 and this section.

(1) The ARNP is prepared and qualified to assume primary responsibility and accountability for the care of patients within their roles of ARNP licensure: Certified nurse practitioner (CNP), certified registered nurse anesthetist (CRNA), certified nurse midwife (CNM), and clinical nurse specialist (CNS).

~~(2) ((ARNP practice is grounded in nursing process and incorporates the use of independent judgment. Practice includes collaborative interaction with other health care professionals in the assessment and management of wellness and health conditions.~~

~~(3) The ARNP functions within his or her))~~ As a licensed independent practitioner, an ARNP provides a wide range of health care services including the diagnosis and management of acute, chronic, and complex health conditions, health promotion, disease prevention, health education, and counseling to individuals, families, groups, and communities. Performing within the scope of the ARNP's education, training, and experience, the licensed ARNP may perform the following:

(a) Examine patients and establish diagnoses by patient history, physical examination, and other methods of assessment;

(b) Admit, manage, and discharge patients to and from health care facilities;

(c) Order, collect, perform, and interpret diagnostic tests;

(d) Manage health care by identifying, developing, implementing, and evaluating a plan of care and treatment for patients;

(e) Prescribe therapies and medical equipment;

(f) Prescribe medications when granted prescriptive authority under this chapter;

(g) Refer patients to other health care practitioners, services, or facilities; and

(h) Perform procedures or provide care services that are within the ARNP's scope of practice according to a commission approved certifying body as defined in WAC 246-840-302.

(3) As leaders in health care, an ARNP may serve in a variety of capacities including, but not limited to, mentors, educators, coaches, advocates, researchers, interprofessional consultants, and administrators.

(4) ARNP practice is grounded in nursing process and incorporates the use of independent judgment. Practice includes interprofessional interaction with other health care professionals in the assessment and management of wellness and health conditions.

(5) Health care is a dynamic field requiring the scope of the ARNP to continually evolve. The ARNP is responsible for possessing a clear understanding of, and functioning within, the scope of practice of the role for which a license has been issued following the standards of care defined by the applicable certifying body as defined in WAC 246-840-302. ((An ARNP may choose to limit the area of practice within the commission approved certifying body's practice.

~~(4) An ARNP shall obtain instruction, supervision, and consultation as necessary before implementing new or unfamiliar techniques or practices.~~

- ~~(5) Performing within the scope of the ARNP's knowledge, experience and practice, the licensed ARNP may perform the following:~~
- ~~(a) Examine patients and establish diagnoses by patient history, physical examination, and other methods of assessment;~~
  - ~~(b) Admit, manage, and discharge patients to and from health care facilities;~~
  - ~~(c) Order, collect, perform, and interpret diagnostic tests;~~
  - ~~(d) Manage health care by identifying, developing, implementing, and evaluating a plan of care and treatment for patients;~~
  - ~~(e) Prescribe therapies and medical equipment;~~
  - ~~(f) Prescribe medications when granted prescriptive authority under this chapter;~~
  - ~~(g) Refer patients to other health care practitioners, services, or facilities; and~~
  - ~~(h) Perform procedures or provide care services that are within the ARNP's scope of practice according to the commission approved certifying body as defined in WAC 246-840-302.)~~
- (6) An ARNP may choose to specialize and perform those acts for which the individual is qualified and has appropriate education and competence.

[Statutory Authority: RCW 18.79.050, 18.79.110, and 18.79.160. WSR 16-08-042, § 246-840-300, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 18.79.010, [18.79.]050, [18.79.]110, and [18.79.]210. WSR 09-01-060, § 246-840-300, filed 12/11/08, effective 1/11/09. Statutory Authority: RCW 18.79.110 and 18.79.050. WSR 00-21-119, § 246-840-300, filed 10/18/00, effective 11/18/00. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-300, filed 6/18/97, effective 7/19/97.]

AMENDATORY SECTION (Amending WSR 04-14-065, filed 7/2/04, effective 7/2/04)

**WAC 246-840-700 Standards of nursing conduct or practice. (1)**

The purpose of defining standards of nursing conduct or practice through WAC 246-840-700 and 246-840-710 is to identify responsibilities of the professional registered nurse and the licensed practical nurse in health care settings and as provided in the Nursing Practice Act, chapter 18.79 RCW. Violation of these standards may be grounds for disciplinary action under chapter 18.130 RCW. Each individual, upon entering the practice of nursing, assumes a measure of responsibility and public trust and the corresponding obligation to adhere to the professional and ethical standards of nursing practice. The nurse shall be responsible and accountable for the quality of nursing care given to clients. This responsibility cannot be avoided by accepting the orders or directions of another person. The standards of nursing conduct or practice include, but are not limited to the following;

(2) The nursing process is defined as a systematic problem solving approach to nursing care which has the goal of facilitating an optimal level of functioning and health for the client, recognizing diversity. It consists of a series of phases: Assessment and planning, intervention and evaluation with each phase building upon the preceding phases.

**(a) Registered Nurse:**

Minimum standards for registered nurses include the following:

**(i) Standard I Initiating the Nursing Process:**

**(A) Assessment and Analysis:** The registered nurse initiates data collection and analysis that includes pertinent objective and subjective data regarding the health status of the clients. The registered nurse is responsible for ongoing client assessment, including assimilation of data gathered from licensed practical nurses and other members of the health care team;

**(B) Nursing Diagnosis/ Problem Identification:** The registered nurse uses client data and nursing scientific principles to develop nursing diagnosis and to identify client problems in order to deliver effective nursing care;

**(C) Planning:** The registered nurse shall plan nursing care which will assist clients and families with maintaining or restoring health and wellness or supporting a dignified death;

**(D) Implementation:** The registered nurse implements the plan of care by initiating nursing interventions through giving direct care and supervising other members of the care team; and

**(b) Licensed Practical Nurse:**

Minimum standards for licensed practical nurses include the following:

**(i) Standard I - Implementing the Nursing Process:** The practical nurse assists in implementing the nursing process;

**(A) Assessment:** The licensed practical nurse makes basic observations, gathers data and assists in identification of needs and problems relevant to the clients, collects specific data as directed, and, communicates outcomes of the data collection process in a timely fashion to the appropriate supervising person;

**(B) Nursing Diagnosis/ Problem Identification:** The licensed practical nurse provides data to assist in the development of nursing diagnoses which are central to the plan of care;

**(C) Planning:** The licensed practical nurse contributes to the development of approaches to meet the needs of clients and families, and, develops client care plans utilizing a standardized nursing care plan and assists in setting priorities for care;

**(D) Implementation:** The licensed practical nurse carries out planned approaches to client care and performs common therapeutic nursing techniques; and

(E) **Evaluation:** The registered nurse evaluates the responses of individuals to nursing interventions and is responsible for the analysis and modification of the nursing care plan consistent with intended outcomes;

(ii) **Standard II Delegation and Supervision:** The registered nurse is accountable for the safety of clients receiving nursing service by:

(A) Delegating selected nursing functions to others in accordance with their education, credentials, and demonstrated competence as defined in WAC 246-840-010(10);

(B) Supervising others to whom ~~((he/she has))~~ they have delegated nursing functions as defined in WAC 246-840-010(10);

(C) Evaluating the outcomes of care provided by licensed and other paraprofessional staff;

(D) The registered nurse may delegate certain additional acts to certain individuals in community-based long-term care and in-home settings as provided by WAC 246-840-910 through 246-840-970 and WAC 246-841-405; and

(E) In a home health or hospice agency regulated under chapter 70.127 RCW, a registered nurse may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care pursuant to chapter 246-335 WAC;

(E) **Evaluation:** The licensed practical nurse, in collaboration with the registered nurse, assists with making adjustments in the care plan. The licensed practical nurse reports outcomes of care to the registered nurse or supervising health care provider;

(ii) **Standard II Delegation and Supervision:** Under direction, the practical nurse is accountable for the safety of clients receiving nursing care:

(A) The practical nurse may delegate selected nursing tasks to competent individuals in selected situations, in accordance with their education, credentials and competence as defined in WAC 246-840-010(10);

(B) The licensed practical nurse in delegating functions shall supervise the persons to whom the functions have been delegated;

(C) The licensed practical nurse reports outcomes of delegated nursing care tasks to the RN or supervising health care provider; and

(D) In community based long-term care and in-home settings as provided by WAC 246-840-910 through 246-840-970 and WAC 246-841-405, the practical nurse may delegate only personal care tasks to qualified care givers;

**(iii) Standard III Health Teaching.** The registered nurse assesses learning needs including learning readiness for patients and families, develops plans to meet those learning needs, implements the teaching plan and evaluates the outcome.

**(iii) Standard III Health Teaching.** The practical nurse assists in health teaching of clients and provides routine health information and instruction recognizing individual differences.

(3) The following standards apply to registered nurses and licensed practical nurses:

(a) The registered nurse and licensed practical nurse shall communicate significant changes in the client's status to appropriate members of the health care team. This communication shall take place in a time period consistent with the client's need for care. Communication is defined as a process by which information is exchanged between individuals through a common system of speech, symbols, signs, and written communication or behaviors that serves as both a means of gathering information and of influencing the behavior, actions, attitudes, and feelings of others; and

(b) The registered nurse and licensed practical nurse shall document, on essential client records, the nursing care given and the client's response to that care; and

(c) The registered nurse and licensed practical nurse act as client advocates in health maintenance and clinical care.

(4) Other responsibilities:

(a) The registered nurse and the licensed practical nurse shall have knowledge and understanding of the laws and rules regulating nursing and shall function within the legal scope of nursing practice;

(b) The registered nurse and the licensed practical nurse shall be responsible and accountable for his or her practice based upon and limited to the scope of (~~his/her~~) their education, demonstrated competence, and nursing experience consistent with the scope of practice set forth in this document; and

(c) The registered nurse and the licensed practical nurse shall obtain instruction, supervision, and consultation as necessary before implementing new or unfamiliar techniques or procedures which are in (~~his/her~~) their scope of practice.

(d) The registered nurse and the licensed practical nurse shall be responsible for maintaining current knowledge in (~~his/her~~) their field of practice; and

(e) The registered nurse and the licensed practical nurse shall respect the client's right to privacy by protecting confidential information and shall not use confidential health care information for other than legitimate patient care purposes or as otherwise provided in the Health Care Information Act, chapter 70.02 RCW.

[Statutory Authority: RCW 18.79.110, 18.79.260 (3) (f), 18.88A.210, 2003 c 140. WSR 04-14-065, § 246-840-700, filed 7/2/04, effective 7/2/04. Statutory Authority: RCW 18.79.110. WSR 02-06-117, § 246-840-700, filed 3/6/02, effective 4/6/02. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-700, filed 6/18/97, effective 7/19/97.]

AMENDATORY SECTION (Amending WSR 02-06-117, filed 3/6/02, effective 4/6/02)

**WAC 246-840-710 Violations of standards of nursing conduct or practice.** The following conduct may subject a nurse to disciplinary action under the Uniform Disciplinary Act, chapter 18.130 RCW:

- (1) Engaging in conduct described in RCW 18.130.180;
- (2) Failure to adhere to the standards (~~(enumerated)~~) in WAC 246-840-700 which may include, but are not limited to:
  - (a) Failing to assess and evaluate a client's status or failing to institute nursing intervention as required by the client's condition;
  - (b) Willfully or repeatedly failing to report or document a client's symptoms, responses, progress, medication, or other nursing care accurately (~~(and/or)~~) and legibly;
  - (c) Willfully or repeatedly failing to make entries, altering entries, destroying entries, making incorrect or illegible entries (~~(and/or)~~) and making false entries in employer or employee records or client records pertaining to the giving of medication, treatments, or other nursing care;
  - (d) Willfully or repeatedly failing to administer medications (~~(and/or)~~) and treatments in accordance with nursing standards;
  - (e) Willfully or repeatedly failing to follow the policy and procedure for the wastage of medications where the nurse is employed or working;
  - (f) Nurses shall not sign any record attesting to the wastage of controlled substances unless the wastage was personally witnessed;
  - (g) Willfully causing or contributing to physical or emotional abuse to the client;
  - (h) Engaging in sexual misconduct with a client as defined in WAC 246-840-740; or
  - (i) Failure to protect clients from unsafe practices or conditions, abusive acts, and neglect;
- (3) Failure to adhere to the standards (~~(enumerated)~~) in WAC 246-840-700(2) which may include:
  - (a) Delegating nursing care function or responsibilities to a person the nurse knows or has reason to know lacks the ability or knowledge to perform the function or responsibility, or delegating to unlicensed persons those functions or responsibilities the nurse knows or has reason to know are to be performed only by licensed persons. This section should not be construed as prohibiting delegation to family members and other caregivers exempted by RCW 18.79.040(3), 18.79.050, 18.79.060 or 18.79.240; or
  - (b) Failure to supervise those to whom nursing activities have been delegated. Such supervision shall be adequate to prevent an unreasonable risk of harm to clients;
- (4)
  - (a) Performing or attempting to perform nursing techniques (~~(and/or)~~) and procedures for which the nurse lacks the appropriate knowledge, experience, and education (~~(and/or)~~) and failing to obtain instruction, supervision (~~(and/or)~~) and consultation for client safety;
  - (b) Violating the confidentiality of information or knowledge concerning the client, except where required by law or for the protection of the client; or
  - (c) Writing prescriptions for drugs unless authorized to do so by the commission;
- (5) Other violations:



- (a) Appropriating for personal use medication, supplies, equipment, or personal items of the client, agency, or institution. The nurse shall not solicit or borrow money, materials or property from clients;
- (b) Practicing nursing while affected by alcohol or drugs, or by a mental, physical or emotional condition to the extent that there is an undue risk that ~~((he or she))~~ they, as a nurse, would cause harm to ~~((him or herself))~~ themselves or other persons; or
- (c) Willfully abandoning clients by leaving a nursing assignment, when continued nursing care is required by the condition of the client(s), without transferring responsibilities to appropriate personnel or caregiver;
- (d) Conviction of a crime involving physical abuse or sexual abuse including convictions of any crime or plea of guilty, including crimes against persons as defined in (~~chapter 43.830 RCW [RCW 43.43.830]~~) RCW 43.43.830 and crimes involving the personal property of a patient, whether or not the crime relates to the practice of nursing; or
- (e) Failure to make mandatory reports to the Nursing Care Quality Assurance Commission concerning unsafe or unprofessional conduct as required in WAC 246-840-730;
- ~~((Other:))~~
- (6) The nurse shall only practice nursing in the state of Washington with a current Washington license;
- (7) The licensed nurse shall not permit ~~((his or her))~~ their license to be used by another person;
- (8) The nurse shall have knowledge of the statutes and rules governing nursing practice and shall function within the legal scope of nursing practice;
- (9) The nurse shall not aid, abet or assist any other person in violating or circumventing the laws or rules pertaining to the conduct and practice of professional registered nursing and licensed practical nursing; or
- (10) The nurse shall not disclose the contents of any licensing examination or solicit, accept or compile information regarding the contents of any examination before, during or after its administration.

[Statutory Authority: RCW 18.79.110. WSR 02-06-117, § 246-840-710, filed 3/6/02, effective 4/6/02. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-710, filed 6/18/97, effective 7/19/97.]