

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**Board of Nursing**

Statutory Authority: 24 Delaware Code, Section 1906(a)(1) (24 **Del.C.** §1906(a)(1))  
24 **DE Admin. Code** 1900

**FINAL**

**ORDER**

**1900 Board of Nursing**

The Delaware Board of Nursing pursuant to 24 *Del. C.* § 1906(a)(1), proposed to revise its regulations. The proposed amendments seek to revise its regulations to set forth the required qualification for and parameters under which a certified nurse midwife or certified nurse practitioner may perform medication and manual vacuum aspiration abortions.

**SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Following publication in the Delaware Register of Regulations on August 1, 2022 a public hearing was held on September 14, 2022. Written comment periods were held open for thirty days, and an additional fifteen days following the public hearing. At the hearing, the Board accepted as evidence and marked as the Board's Exhibits 1 and 2, documentation of publication of the notice of the public hearing in the News Journal and the Delaware State News.

At the time of the deliberations, the Board considered the following documents:

**Board Exhibit 1** - Affidavit of publication of the public hearing notice in the News Journal;

**Board Exhibit 2** - Affidavit of publication of the public hearing notice in the Delaware State News; and

**Board Exhibit 3** - September 29, 2022 letter from Tijah R. Hilton-Phillips, Esquire, Director of Regulatory Affairs for Highmark Blue Cross Blue Shield Delaware suggesting two additions to the proposed regulations. Specifically, Highmark requested that a requirement that providers demonstrate competency via proof of number of prior procedures performed and that a physician backup be present during the procedure.

**FINDINGS OF FACT AND CONCLUSIONS**

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.
2. On September 29, 2022 Highmark Blue Cross Blue Shield Delaware submitted a letter asking the Board to add a requirement that providers demonstrate competency via proof of number of prior procedures performed and that a physician backup be present during the procedures in case of complications such as a perforated uterus.
3. The Board discussed the comment from Highmark and noted that the regulations were developed by the APRN Committee, made up of several members qualified to perform the procedures set forth in the regulations. The Board noted that these professionals are not currently required to comply with Highmark's proposed requirements, and several of other procedures they perform have a risk of uterine perforation, such as IUD insertion or endometrial biopsy.
4. The Board further found that the decision regarding requirements for these procedures should be up to the facilities where they are performed. The request that doctors be present undercuts APRNs' rights to independent practice. As such, the Board voted unanimously to reject Highmark's proposed changes.
5. Pursuant to 24 *Del. C.* § 1906(a)(1), the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.
6. The proposed amendments seek to revise its regulations to set forth the required qualification for and parameters under which a certified nurse midwife or certified nurse practitioner may perform medication and manual vacuum aspiration abortions.
7. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed changes to the Board's rules and regulations.
8. For the reasons stated above, the Board finds no reason to substantively amend the regulations.

**DECISION AND ORDER CONCERNING THE REGULATIONS**

Having found that the proposed changes to the regulations are necessary as outlined herein, the Board finds that the

regulations shall be adopted as final in the form as proposed. The exact text of the regulations, as amended, are attached to this order as Exhibit A. These changes will become effective ten days following publication of this order in the Delaware Register of Regulations.

**IT IS SO ORDERED** this 12th day of October 2022 by the Delaware Board of Nursing.

Jacqui Mainwaring, CRNA

Pamela James, RN

Stephanie Mitchell, FNP, PMH, NP

Sandra Glenn-Vernon, RN

Christina Hushen, RN

Danielle Lowe, RN

Tiarra Davis, Public Member

Carol Abdill, RN

Prameela Kaza, Public Member

Gayle Melvin, Public Member

## **1900 Board of Nursing**

### **1.0 General Provisions for the Operation of the Delaware Board of Nursing**

These Rules and Regulations are adopted by the Delaware Board of Nursing by authority of the Delaware Nurse Practice Act, 24 **Del.C.** §1906(a)(1).

#### **1.1 Officers**

The officers of the Board shall be the President and the Vice-President to be elected each year during the month of June and to assume their duties as of July 1.

##### **1.1.1 The President of the Board shall:**

1.1.1.1 Preside at all meetings of the Board;

1.1.1.2 Represent the Board at the National Council of State Boards of Nursing (NCSBN) Delegate Assembly as a voting delegate, certain professional and/or community functions, and regional or national meetings, or shall designate a member or the Executive Director to represent the Board;

1.1.1.3 Sign or delegate to the Executive Director all correspondence conveying rulings of the Board to nursing service agencies and educational institutions;

1.1.1.4 Execute those functions delegated to the President elsewhere in these rules and regulations, or otherwise by law;

1.1.1.5 Collaborate with the Executive Director to develop and review the agenda for the Board meeting.

##### **1.1.2 The Vice-President of the Board shall:**

1.1.2.1 Preside at meetings and hearings in the absence of the President;

1.1.2.2 Execute those functions delegated to the Vice-President elsewhere in these rules and regulations, or otherwise by law;

1.1.2.3 Represent the Board at the NCSBN Delegate Assembly, and other meetings as delegated by the President or the Board, as a voting delegate.

##### **1.1.3 Filling Vacancies:**

1.1.3.1 In the event of a resignation, termination or departure of one of the officers, a replacement shall be elected at the next Board meeting or at a meeting called for that purpose. A quorum of the Board is required.

1.1.3.2 In the event one of the officers shall not be available to fulfill their duties for a period of three months, the Board shall nominate one of its members to serve for the interim period.

#### **1.2 Members**

1.2.1 All members appointed to the Board share the responsibility vested in the Board. The President of the Board shall consider qualifications and educational preparation in delegating certain duties to individual members of the Board.

1.2.2 Board members may review drafts of National Council Licensure Examination questions for Registered Nurses and Licensed Practical Nurses in a private setting.

1.2.3 Two Board members shall be chosen as alternate voting delegates to the NCSBN Delegate Assembly if one of the voting delegates can not attend.

1.2.4 The members of the Board shall attend all scheduled Board business meetings. If there are extenuating circumstances which prevent a member from attending all or part of a scheduled meeting, the Executive Director should be informed in writing, if time permits, or by telephone, in advance of the meeting.

1.2.5 All members are expected to be aware of and follow their obligations under the State Employees', Officers' and Officials' Code of Conduct.

1.3 Duties of the Executive Director

1.3.1 The Division of Professional Regulation prescribes the duties of the Executive Director.

15 DE Reg. 685 (11/01/11)

21 DE Reg. 735 (03/01/18)

24 DE Reg. 379 (10/01/20)

## 2.0 Nursing Education Programs

2.1 Definitions

**"Advanced assessment"** means the taking by an advanced practice registered nurse (APRN) of the history, physical and psychological assessment of a patient's signs, symptoms, pathophysiologic status and psychosocial variations in the determination of differential diagnoses and treatment.

**"Board"** means the Delaware Board of Nursing.

**"Clinical learning experiences"** means the planned, faculty-guided learning experiences that involve direct contact with patients.

**"Competence"** means the ability of the nurse to integrate knowledge, skills, judgment, and personal attributes to practice safely and ethically in a designated role and setting in accordance with the scope of nursing practice.

**"Comprehensive nursing assessment"** means collection, analysis and synthesis of data performed by an RN used to establish a health status baseline, plan care and address changes in a patient's condition.

**"Conditional Approval"** means the status granted to a program that is determined to be deficient in a specified area or areas. When this determination is made by the Board, written notice shall be sent to the program specifying the deficient areas, and the time limit within which the deficiencies are to be corrected. May apply to any program either holding "full" or "initial" approval and may also apply to Delaware Board-approved RN or LPN Refresher Programs.

**"Debriefing"** means an activity that follows a simulation experience, is led by a facilitator, encourages participant's reflective thinking, and provides feedback regarding the participant's performance.

**"Focused nursing assessment"** means recognizing patient characteristics by an LPN/VN that may affect the patient's health status, gathering and recording assessment data and demonstrating attentiveness by observing, monitoring, and reporting signs, symptoms, and changes in patient condition in an ongoing manner to the supervising registered nurse or physician.

**"Full Approval"** means the status granted to a program that meets the requirements of the Law and the Rules and Regulations of the Board. Continuation of full approval is contingent upon annual review of the program and continuing to meet the criteria.

**"Initial Approval"** means authorization to admit students and enter into contractual agreements for clinical facilities. It is granted only after an application has been submitted, reviewed and a survey visit made by the Board. No students shall be admitted to the program until the institution has received written notification that initial approval has been granted. Failure to comply will delay initial approval.

**"National Accrediting Agency for Nursing Education"** means a national accrediting agency for nursing education that is recognized by the Council on Postsecondary Accreditation and by the U.S. Department of Education.

**"Nursing Education Program"** is defined in 24 Del.C. Ch. 19.

**"Patient-centered health care plan"** means, in collaboration with patient, the identification of desired goals, strategies for meeting goals and processes for promoting, attaining and maintaining optimal patient health outcomes.

**"Preceptor"** means a nurse, who holds a BSN or higher degree, and a valid license to practice. Clinical preceptors shall have demonstrated competencies in the area of practice to which the student is assigned. Clinical preceptors may be used to accomplish faculty directed clinical learning experiences.

**"Simulation"** means a technique to replace or amplify real experiences with guided experiences that evoke or replicate substantial aspects of the real world in a fully interactive manner.

**"Supervision"** means provision of guidance or oversight by a qualified nurse for the accomplishment of a nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing the task or activity.

2.2 Authority Designated to the Board of Nursing

In accordance with 24 Del.C. Ch. 19, the Board may:

- 2.2.1 Approve curricula and develop criteria and standards for evaluating nursing education programs;
  - 2.2.2 Provide for surveys of such programs at such time as it may deem necessary;
  - 2.2.3 Approve such program to meet the requirements of the Chapter and of the Board; and
  - 2.2.4 Deny or withdraw approval for nursing education programs for failure to meet prescribed curriculum or other standards. (Subsections 1906 (b), (c), (e)).
- 2.3 Purpose of Nursing Education Standards
- The state requires that nursing education programs be approved in order to:
- 2.3.1 Ensure that graduates of nursing education programs are prepared for safe and effective nursing practice.
  - 2.3.2 Provide for the criteria for the development, evaluation and improvement of new and established nursing education programs.
  - 2.3.3 Assure candidates are educationally prepared for licensure and recognition at the appropriate level.
- 2.4 Nursing Education Standards
- All nursing education programs shall meet these standards:
- The purpose and outcomes of the nursing programs shall be consistent with the Nurse Practice Act and Board promulgated administrative rules, regulations and other relevant state statutes.
  - The purpose and outcomes of the nursing program shall be consistent with generally accepted standards of nursing practice appropriate for graduates of the type of nursing program offered.
  - The input of consumers shall be considered in developing and evaluating the purpose and outcomes of the program
  - The nursing program shall implement a comprehensive, systematic plan for ongoing evaluation that is based on program outcomes and incorporates continuous improvement principles.
  - The curriculum shall provide diverse didactic and clinical learning experiences consistent with program outcomes.
  - Faculty and students shall participate in program planning, implementation, evaluation and continuous improvement.
  - The nursing program administrator (Director) shall be a professionally and academically qualified Registered Nurse with institutional authority and administrative responsibility for the program. (Section 2.4.1.5 – Administrator Qualifications)
  - Professionally, academically and clinically qualified nurse faculty shall be sufficient in number and expertise to accomplish program outcomes and quality improvement. (Section 2.4.1.6 – Faculty Qualifications)
  - The fiscal, human, physical, clinical and technical learning resources shall be adequate to support program processes, security and outcomes.
  - Program information communicated by the nursing program shall be accurate, complete, consistent and readily available.
- 2.4.1 Required Criteria for Nursing Education Programs – The organization and administration of the nursing education shall be consistent with the law governing the practice of nursing. The nursing education program shall be an integral part of a governing institution with appropriate accreditation. The following minimum criteria serve to support the implementation of the Nursing Education Standards:
- 2.4.1.1 Annual Report
    - 2.4.1.1.1 By December 1 of each year, a copy of an annual report of the nursing education program shall be sent to the Board, using the format supplied by the Board. The report will include information from the previous academic year and is required of new programs as well. This is a comprehensive education program self-evaluation and shall include but not be limited to:
      - 2.4.1.1.1.1 Students' achievement of program outcomes.
      - 2.4.1.1.1.2 Evidence of adequate program resources including fiscal, physical, human, clinical and technical learning resources; and the availability of clinical sites and the viability of those sites to meet the objectives of the program.
      - 2.4.1.1.1.3 Multiple measures of program outcomes for graduates. These may include but are not limited to NCLEX pass rates, student and/or employer surveys, etc.
      - 2.4.1.1.1.4 Evidence that accurate program information for consumers is readily available.
      - 2.4.1.1.1.5 The head of the academic institution and the administration support program outcomes
      - 2.4.1.1.1.6 Program administrator and program faculty meet Board of Nursing qualifications and are sufficient to achieve program outcomes.
      - 2.4.1.1.1.7 Evidence that the academic institution assures security of student information.
  - 2.4.1.2 School Records

- 2.4.1.2.1 A nursing education program shall maintain a system of records which shall contain all data relating to approval by any agency or body. The data shall include, but not be limited to, course outlines, minutes of faculty and committee meetings, pertinent correspondence, reports of standardized tests and survey reports. Such data shall be available to the Board representatives during the course of a survey or site visit subject to applicable provisions of state and federal law.
- 2.4.1.3 Student Records
  - 2.4.1.3.1 The school shall maintain a record for each student subject to applicable provisions of law, such records shall be available to Board representatives during the course any survey or site visit.
  - 2.4.1.3.2 A final transcript for each student shall be retained in the permanent records of the school.
  - 2.4.1.3.3 Provision shall be made for the protection of records against loss, destruction and unauthorized use.
- 2.4.1.4 School Bulletin or Catalogue
  - 2.4.1.4.1 Current information about the school shall be published periodically and distributed to students, applicants for admission and to the Board. It should include a general description of the program, philosophy and objectives of the controlling institution and of the nursing programs, admission and graduation requirements, fees, expenses, and financial aid, educational facilities, living accommodations, student activities and services, curriculum plan, course descriptions, process for addressing student complaints and/or grievances and faculty staff roster.
- 2.4.1.5 Administrator and Faculty Qualifications
  - 2.4.1.5.1 Administrator qualifications in a program preparing for LPN licensure shall include:
    - 2.4.1.5.1.1 A current, active, unencumbered Delaware RN license or compact (multi-state) license, and meet requirements in the state where the program is approved and/or accredited.
    - 2.4.1.5.1.2 A minimum of a master's degree in nursing from a nationally accredited program.
    - 2.4.1.5.1.3 Experience in nursing practice and shall give evidence of ability in providing leadership.
    - 2.4.1.5.1.4 Experience in nursing education including teaching and learning principles for adult education and curriculum development and administration.
  - 2.4.1.5.2 Administrator qualifications in a program preparing for RN licensure shall include:
    - 2.4.1.5.2.1 A current, active, unencumbered Delaware RN license or compact (multi-state) license, and meet requirements in the state where the program is approved and/or accredited.
    - 2.4.1.5.2.2 For a baccalaureate degree program, the administrator shall hold an earned doctoral degree in nursing or related field and a master's degree in nursing from a nationally accredited program. For an associate degree or diploma program, the administrator shall hold a minimum of a master's degree in nursing from a nationally accredited program.
    - 2.4.1.5.2.3 Experience in nursing practice and shall give evidence of ability in providing leadership.
    - 2.4.1.5.2.4 Experience in nursing education including teaching and learning principles for adult education and curriculum development and administration.
  - 2.4.1.5.3 The number of faculty members shall be sufficient to prepare the students for licensure, to achieve the objectives as stated in the school's application, and reasonably proportionate to:
    - 2.4.1.5.3.1 Number of students enrolled
    - 2.4.1.5.3.2 Frequency of admissions
    - 2.4.1.5.3.3 Education and experience of faculty members (current experience in all specialties must be represented among the faculty and must correspond with the primary teaching responsibilities assigned)
    - 2.4.1.5.3.4 Number and location of clinical facilities
    - 2.4.1.5.3.5 Total responsibilities of the faculty members
    - 2.4.1.5.3.6 The faculty-to-student ratio shall not exceed 1:8 for inpatient settings where faculty directly supervise students during the delivery of patient care.
  - 2.4.1.5.4 Qualifications and responsibilities for faculty member positions shall be defined in writing.
  - 2.4.1.5.5 Written personnel policies shall be consistent with the policies of the sponsoring institution.
  - 2.4.1.5.6 Faculty assignments shall allow time for class and laboratory preparation, teaching, program evaluation, improvement of teaching methods, guidance of the students, participation in

faculty organizations and committees, attendance at professional meetings, and participation in continuing education activities.

- 2.4.1.5.7 Principal functions of the faculty shall be to:
  - 2.4.1.5.7.1 Develop the philosophy and objectives of the nursing program
  - 2.4.1.5.7.2 Develop, implement, evaluate and revise the curriculum
  - 2.4.1.5.7.3 Participate in the recruitment, admission and retention of students in the nursing program
  - 2.4.1.5.7.4 Establish criteria for promotion and completion of the program in nursing
  - 2.4.1.5.7.5 Evaluate student achievement on the basis of established criteria
  - 2.4.1.5.7.6 Recommend successful candidates for degree, diploma and other forms of recognition
  - 2.4.1.5.7.7 Participate in appropriate activities of the controlling institution
- 2.4.1.5.8 The nursing faculty shall hold a current, active, unencumbered Delaware RN license or compact (multi-state) license and meet requirements in the state where the program is approved and/or accredited.
- 2.4.1.5.9 Clinical faculty shall hold a license or privilege to practice and meet requirements in the state or jurisdiction of the students' clinical site.
- 2.4.1.5.10 Qualifications for nursing faculty who teach in a program leading to licensure as an LPN:
  - 2.4.1.5.10.1 Have a minimum of a baccalaureate degree in nursing
  - 2.4.1.5.10.2 Have current clinical experience
  - 2.4.1.5.10.3 Have preparation in teaching and learning principles for adult education, including curriculum development and implementation
  - 2.4.1.5.10.4 Have current knowledge of licensed practical nursing practice
- 2.4.1.5.11 Qualifications for nursing faculty who teach in a program leading to licensure as a registered nurse:
  - 2.4.1.5.11.1 Have a minimum of a master's degree in nursing
  - 2.4.1.5.11.2 Have current clinical experience
  - 2.4.1.5.11.3 Have preparation in teaching and learning principles for adult education, including curriculum development and implementation
- 2.4.1.5.12 Adjunct clinical faculty employed solely to supervise clinical nursing experiences of students shall have a minimum of a baccalaureate degree in nursing with the majority holding a master's degree in nursing or actively enrolled in a master's degree in nursing program.
- 2.4.1.5.13 Interdisciplinary faculty who teach non-clinical nursing courses shall have advanced preparation appropriate to those areas of content.
- 2.4.1.5.14 Clinical preceptors shall have demonstrated competencies related to the area of assigned clinical teaching responsibilities and will serve as a role model and educator for the student. Clinical preceptors may be used to enhance faculty-directed clinical learning experiences. Clinical preceptors must be licensed or privileged to practice as a nurse at or above the level for which the student is preparing in the state or jurisdiction where they are precepting students.
- 2.4.1.5.15 Organization
  - 2.4.1.5.15.1 The nursing faculty shall attend regular meetings of the faculty for the purpose of developing, implementing and evaluating the nursing curriculum.
  - 2.4.1.5.15.2 Committees shall be established as needed to meet the responsibilities and accountabilities of the department.
  - 2.4.1.5.15.3 Written rules or bylaws shall govern the conduct of nursing faculty meetings and committees.
  - 2.4.1.5.15.4 Minutes, guided by an agenda, of faculty and committee meetings and will include: conclusions made following discussions, recommendations and actions as well as timeline for evaluation and follow-up.
  - 2.4.1.5.15.5 Provisions shall be made for nursing student membership and participation on faculty committees and in committee meetings as appropriate.
  - 2.4.1.5.15.6 Where nursing practice/education (advisory) committees are established, their functions and relationship to the board of control and to the program shall be clearly defined
  - 2.4.1.5.15.7 Written rules shall govern the activities of the nursing practice/education (advisory) committee(s) and minutes of the meetings shall be on file in the administrative office of the program.

- 2.4.1.5.16 Online education program faculty teaching didactic content for a program with a physical presence in Delaware should be licensed or privileged to practice as a nurse at or above the level for which the student is preparing.
- 2.4.1.5.17 Online education program faculty teaching in a DE clinical facility as a clinical instructor or preceptor must be licensed or privileged to practice as a nurse at or above the level for which the student is preparing.
- 2.4.1.6 Students
  - 2.4.1.6.1 Students shall be provided the opportunity to acquire and demonstrate the knowledge, skills and abilities for safe and effective nursing practice, in theory and clinical experience with faculty oversight.
  - 2.4.1.6.2 All policies relevant to applicants and students shall be available in writing.
  - 2.4.1.6.3 Students shall be required to meet the health standards and criminal background checks as required.
  - 2.4.1.6.4 Students shall receive faculty instruction, advisement and oversight.
  - 2.4.1.6.5 Students shall be held accountable for the integrity of their work.
  - 2.4.1.6.6 Admission, Promotion and Graduation
    - 2.4.1.6.6.1 Policies and procedures related to the selection and admission of students are the responsibility of the individual school.
    - 2.4.1.6.6.2 Students shall be admitted on the basis of established criteria and without discrimination as to age, race, religion, sex, sexual preference, national origin, or disability.
    - 2.4.1.6.6.3 There shall be written policies for the admission and re-admission of students.
    - 2.4.1.6.6.4 Schools granting advanced standing after admission via challenge examinations, College Level Examination Program, teacher made tests or any other method shall have written criteria for granting course credit. Course credits attained through one of these mechanisms or transferred in from another institution shall not represent more than fifty (50) percent of the credits required for graduation.
    - 2.4.1.6.6.5 The policies for promotion, retention and graduation shall be published in the school catalogue or in other appropriate documents that are available to students.
    - 2.4.1.6.6.6 All candidates in a program that requires applicants to be registered nurses must be licensed in Delaware or hold a current, valid compact (multi-state) license if any clinical experiences occur in the State.
- 2.4.1.7 Curriculum
  - 2.4.1.7.1 The curriculum of the nursing education program shall enable the student to develop the nursing knowledge, skills and abilities necessary for the level, scope and standards of competent nursing practice expected at the level of licensure. The curriculum will be revised as necessary to maintain a program that reflects advances in health care and its delivery.
  - 2.4.1.7.2 LPN and RN programs shall provide for concurrent or correlated theory and clinical practice in the physical or mental health care of individuals of all ages the nursing care of mothers and newborns, children, adults, the aged, individuals with mental health problems, and individuals in diverse settings, not necessarily in separate courses.
  - 2.4.1.7.3 Clinical experiences shall include preventive aspects of illness, nursing care of persons with acute and chronic illnesses, and rehabilitative care. Opportunities shall be provided for the student to participate in patient teaching in a variety of settings with individuals, families, and groups.
  - 2.4.1.7.4 A minimum of 200 hours of clinical experience is required for LPN students and a minimum of 400 hours of clinical experience is required for RN students. LPN clinical does not equate to RN clinical and may not be substituted or included for RN clinical in an educational program nor as RN clinical practice to meet the practice hour requirement for relicensure. Simulation - high fidelity or standardized patient - clinical scenarios may be substituted for traditional clinical experiences but must not exceed 50% of the program's clinical hours per course.
    - 2.4.1.7.4.1 The program shall have an organizing framework that provides adequate fiscal, human, and material resources to support the simulation activities.
    - 2.4.1.7.4.2 Simulation activities shall be managed by an individual who is academically and experientially qualified. The individual shall demonstrate continued expertise and competence in the use of simulation while managing the program.
    - 2.4.1.7.4.3 There shall be a budget that will sustain the simulation activities and training of the faculty.

- 2.4.1.7.4.4 The program shall have appropriate facilities for conducting simulation. This shall include educational and technological resources and equipment to meet the intended objectives of the simulation.
- 2.4.1.7.4.5 Both didactic and clinical faculty involved in simulations shall have training in the use of simulation, and shall engage in on-going professional development in the use of simulation.
- 2.4.1.7.4.6 The program shall demonstrate that the simulation activities are linked to programmatic outcomes.
- 2.4.1.7.4.7 The program shall have written policies and procedures on short-term and long-term plans for integrating simulation into the curriculum; method of debriefing each simulated activity; and a plan for orienting faculty to simulation.
- 2.4.1.7.4.8 The program shall develop criteria to evaluate the simulation activities. Students shall evaluate the simulation experience on an ongoing basis.
- 2.4.1.7.4.9 The program shall include information about its use of simulation in its annual report to the Board of Nursing.
- 2.4.1.7.5 The curriculum, as defined by nursing education, professional and practice standards, shall include:
  - 2.4.1.7.5.1 Experiences that promote the development and subsequent demonstration of evidence-based clinical judgment, skill in clinical management, and the professional commitment to collaborate in continuously improving the quality and safety of the healthcare system for patients.
  - 2.4.1.7.5.2 Evidence-based learning experiences and methods of instruction, including distance education methods, consistent with the written curriculum plan.
  - 2.4.1.7.5.3 Coursework including, but not limited to:
    - 2.4.1.7.5.3.1 Content in the biological, physical, social and behavioral sciences to provide a foundation for safe and effective nursing practice;
    - 2.4.1.7.5.3.2 Content regarding professional responsibilities, legal and ethical issues, history and trends in nursing and health care; and
    - 2.4.1.7.5.3.3 Didactic content and supervised clinical experience in the prevention of illness and the promotion, restoration and maintenance of health in patients across the lifespan and from diverse cultural, ethnic, social and economic backgrounds. Patient experiences will occur in a variety of clinical settings and will include:
      - 2.4.1.7.5.3.3.1 Integrating patient safety principles throughout the didactic and clinical coursework.
      - 2.4.1.7.5.3.3.2 Implementing evidence-based practice to integrate best research with clinical expertise and patient values for optimal care, including skills to identify and apply best practices to nursing care.
      - 2.4.1.7.5.3.3.3 Providing patient-centered, culturally competent care that recognizes that the patient or designee is the source of control and full partner in providing coordinated care by:
        - 2.4.1.7.5.3.3.3.1 Respecting patient differences, values, preferences and expressed needs.
        - 2.4.1.7.5.3.3.3.2 Involving patients/designees in decision-making and care management.
        - 2.4.1.7.5.3.3.3.3 Coordinating and managing patient care across settings.
        - 2.4.1.7.5.3.3.3.4 Explaining appropriate and accessible interventions to patients and populations that may positively affect their ability to achieve healthy lifestyles.
  - 2.4.1.7.5.4 Collaborating with interprofessional teams to foster open communication, mutual respect, and shared decision-making in order to achieve quality patient care.
  - 2.4.1.7.5.5 Participating in quality improvement processes to monitor patient care outcomes, identify possibility of hazards and errors, and collaborate in the development and testing of changes that improve the quality and safety of health care systems.
  - 2.4.1.7.5.6 Using information technology to communicate, mitigate error and support decision making.
- 2.4.1.7.6 Faculty supervised clinical practice shall include development of skills in direct patient care; making clinical judgments; care and management of both individuals and groups of patients across the lifespan; and delegation to and supervision of, as appropriate to level of education, other health care providers.



- 2.4.1.7.6.1 Clinical experiences shall be supervised by qualified faculty.
- 2.4.1.7.6.2 All student clinical experiences, including those with preceptors, shall be directed by nursing faculty.
- 2.4.1.7.6.3 Measurement of students' competencies shall focus on the students' demonstration of care management and decision making skills when providing patient care in a variety of clinical situations and care settings.
- 2.4.1.7.7 Delivery of instruction by distance education methods must be consistent with the program curriculum plan and enable students to meet the goals, competencies and outcomes of the educational program and standards of the BON.
- 2.4.1.8 Evaluation
  - 2.4.1.8.1 Evaluation as a basis for curriculum revision and change in practices is a continuous process and an inherent responsibility of the faculty. The degree to which the faculty accomplishes its objectives shall be determined through evaluation of curriculum content, teaching methodologies, clinical and other learning experiences, student progress, success of graduates on the licensing examination, promotion, retention and degree of nursing competence of the graduate.
- 2.4.1.9 Education Facilities
  - 2.4.1.9.1 Classrooms, laboratories, and conference rooms shall be adequate in number, size and type for the number of students and educational purposes for which the rooms are used.
  - 2.4.1.9.2 Offices
    - 2.4.1.9.2.1 Offices shall be available and adequate in size, number and type to provide faculty with opportunities for uninterrupted work and privacy for conferences with students.
    - 2.4.1.9.2.2 Space for clerical staff, records, files and other equipment shall be adequate for the needs of the program.
  - 2.4.1.9.3 Learning Resources
    - 2.4.1.9.3.1 Learning resources must be recent, pertinent and sufficient to meet the learning needs of students and faculty.
      - 2.4.1.9.3.1.1 Provisions shall be made for regular additions to and deletions from the resource collection.
      - 2.4.1.9.3.1.2 Learning facilities and policies shall be conducive to effective use.
  - 2.4.1.9.4 Clinical Facilities
    - 2.4.1.9.4.1 The clinical facility to which the student is assigned for clinical practice is considered an integral part of the nursing program.
      - 2.4.1.9.4.1.1 Clinical facilities shall be selected by the faculty to provide learning experiences essential to achieve the stated purposes of the program and the stated objectives for each clinical course. They may include, but are not limited to:
        - 2.4.1.9.4.1.1.1 Inpatient facilities such as acute care hospitals, specialized hospitals, long term and extended care facilities.
        - 2.4.1.9.4.1.1.2 Outpatient facilities such as hospital based clinics, community health centers, mental health clinics and physician offices.
        - 2.4.1.9.4.1.1.3 Other community based opportunities such as home health, hospices, health maintenance organizations, day care centers, schools/school systems, senior centers and correctional facilities.
      - 2.4.1.9.4.1.2 The following criteria for clinical facility use must be met:
        - 2.4.1.9.4.1.2.1 There shall be an environment in which effective learning can take place and in which the student is recognized as a learner.
        - 2.4.1.9.4.1.2.2 There shall be an adequate number of qualified professional and other nursing personnel not including the student, to ensure safe care of the patient.
        - 2.4.1.9.4.1.2.3 There shall be a sufficient number and variety of patients to provide adequate learning experiences.
      - 2.4.1.9.4.1.3 Hospital facilities shall be accredited by the Joint Commission or the American Osteopathic Association. Other facilities such as specialized hospitals, long term and extended care facilities and community health agencies shall be licensed or accredited by the appropriate approving authority.

2.4.1.9.4.1.4 Facilities used for clinical experience shall be approved by the Board prior to the assignment of students. Approval shall be based on information provided by the school on forms furnished by the Board. A visit by Board representatives to the clinical site may be scheduled.

2.4.1.9.4.1.5 Use of clinical facilities in another state or jurisdiction requires written notification to that jurisdiction's Board of Nursing. Likewise, out of state schools requesting use of clinical facilities in Delaware will notify the Board prior to utilization.

2.4.1.9.4.1.5.1 Out of state programs must submit, prior to utilization of a Delaware clinical facility: proof of program approval by a respective State Board of Nursing and/or accreditation of the program by a nationally recognized accrediting body; copies of written agreements with every clinical agency being utilized; program requirements for clinical faculty and/or preceptors, if used; name of faculty/preceptor and site(s) where assigned; copy of current Delaware or compact (multi-state) licensure for faculty/preceptor.

2.4.1.9.4.1.6 Written agreements between the school and agencies involved shall:

2.4.1.9.4.1.6.1 Ensure that the faculty is ultimately responsible for the students' learning experiences.

2.4.1.9.4.1.6.2 Provide for continuous planning for students in cooperation with appropriate nursing staff of the agency.

2.4.1.9.4.1.6.3 Provide adequate space for the number of students and faculty to conduct educational conferences.

2.4.1.9.4.1.7 Observational experiences shall be planned in cooperation with the agency to meet the stated objectives.

#### 2.4.1.10 Services

2.4.1.10.1 There shall be written policies for student welfare as related to health, counseling and guidance, financial aid, and residence life, if offered.

2.4.1.10.2 There shall be well-defined written policies governing payment and refund of tuition and other fees.

2.4.2 Purpose of New Nursing Education Program Approval. The State requires that new nursing education programs be approved in order to: promote the safe practice of nursing by implementing standards for individuals seeking licensure as registered nurses and licensed practical nurses; grant legal recognition to nursing education programs that the board determines have met the standards; assure graduates that they meet the education and legal requirements for the level of licensure for which they are preparing and to facilitate their endorsement to other states and countries; assure continuous evaluation and improvement of nursing education programs; provide the public and prospective students with a list of nursing programs that meets the standards established by the Board.

### 2.5 Procedure for Establishing (New) Nursing Education Programs

#### 2.5.1 Phase I

##### Application to the Board

2.5.1.1 An administrative officer of the institution shall complete the appropriate application form supplied by the Board and forward both one hardcopy and an electronic file copy in a format specified by the Board to the Executive Director of the Board prior to planned enrollment of students.

2.5.1.2 The proposed program shall provide the following information to the Board at the time of application:

2.5.1.2.1 Results of a needs assessment, including identification of potential students and employment opportunities for program graduates.

2.5.1.2.2 Identification of sufficient financial and other resources

2.5.1.2.3 Governing institution approval and support

2.5.1.2.4 Evidence of community support

2.5.1.2.5 Type of educational program proposed

2.5.1.2.6 Clinical opportunities and availability of resources

2.5.1.2.7 Availability of qualified faculty

2.5.1.2.8 A pool of available students

2.5.1.2.9 A proposed timeline for initiating and expanding the program

- 2.5.1.2.10 Evidence that the proposed nursing program meets state requirements, and regional or national accreditation by an accredited agency recognized by the U.S. Department of Education.
- 2.5.1.2.11 Evidence the proposed nursing program is actively seeking accreditation from a U.S. Department of Education recognized national nursing accrediting agency.
- 2.5.1.3 The Board shall review the application and determine whether it is complete and meets the criteria established in the current application guidelines to move to Phase II. No applicant program may proceed into Phase II until the Board has determined that the applicant program has met all the requirements of Phase I.
- 2.5.2 Phase II
  - Approval for Admission of Students
  - 2.5.2.1 The institution shall notify the Board of the appointment of a qualified nurse as director of the program at least five (5) months in advance of the anticipated enrollment of students in nursing courses.
  - 2.5.2.2 The program director shall be responsible for planning the program and providing:
    - 2.5.2.2.1 Overview of total curriculum:
      - 2.5.2.2.1.1 Content
      - 2.5.2.2.1.2 Schedule (course sequence)
      - 2.5.2.2.1.3 Course descriptions
      - 2.5.2.2.1.4 Contracts for clinical sites
      - 2.5.2.2.1.5 Program evaluation plan
      - 2.5.2.2.1.6 Board of Nursing consultation
      - 2.5.2.2.1.7 Course syllabi for first year with identified timeline for submission of syllabi for next years
    - 2.5.2.2.2 Student policies for admission, progression, retention and graduation
  - 2.5.2.3 The institution shall appoint other qualified nurse faculty members in advance of enrollment of students in nurse courses to participate in determining the theoretical framework and in developing the curriculum plan and course content.
  - 2.5.2.4 The program shall be developed according to criteria in accordance with 2.4 of these Regulations. An applicant program must demonstrate compliance with Rule 2.4 before it may proceed into Phase III.
  - 2.5.2.5 The Board shall review information from the Phase I and Phase II application forms and materials and conduct a site visit. At least one of the visitors shall be the nurse educator member of the Board.
    - 2.5.2.5.1 Alternatively, the institution desiring to establish a nursing education program may elect to have a site visit made by a Board member(s) and a nursing education consultant, the latter with special expertise in the same type of nursing education as the proposed program. The consultant shall be from a list of qualified persons approved by the Board. Costs associated with the visit of the consultant shall be borne by the nursing education program requesting the same.
  - 2.5.2.6 The purpose of the site visit is to validate the information recorded on the application.
  - 2.5.2.7 The site visit team shall make a written report to the Board.
  - 2.5.2.8 The Board shall review the application and supporting information at the regularly scheduled meeting and determine if the program is prepared to admit students. If it is so determined, initial approval will be granted.
  - 2.5.2.9 The Board shall notify the institution in writing when it has been determined that all requirements of Phase I and Phase II have been met.
  - 2.5.2.10 When the Board determines that an applicant program has met the requirements of Phase I and Phase II, the board shall grant the program initial approval and the applicant program may begin to admit students.
  - 2.5.2.11 The Board shall deny initial approval if it determines that a proposed nursing education program is unable to meet the standards for nursing education.
- 2.5.3 Phase III
  - Full Approval
  - 2.5.3.1 Following initial approval, the director of the program shall submit a copy of a progress report to the Board at least every six months (December and June). This shall be a general report of

progress to date to include the number of students enrolled, attrition rate, faculty credentials, curriculum design, and use of clinical facilities and shall address status and progress on any deficiencies noted as a result of any site visit(s) and/or documentation previously submitted to the Board resulting in any requirements placed on the program by the Board. After the admission of students, these reports shall continue to be submitted at six month intervals until discontinued by the Board.

2.5.3.2 Following the graduation of the first class

2.5.3.2.1 The nurse faculty shall prepare and submit a copy of the program's evaluation plan and data to the Board for review.

2.5.3.2.2 The Board will complete a program site visit concurrent with graduation of the first class or their eligibility for NCLEX and prepare a site visit report that verifies the degree to which the program is in compliance with the Board of Education standards found in 2.4 of this Section.

2.5.3.2.3 The Board will review the information and consider full approval of the program if it finds significant compliance with 2.4 and a satisfactory site visit report.

2.5.3.3 The Board's decision regarding approval status shall be sent in writing to the appropriate administrative officers and to the director of the nursing education program. New programs will have two years from the first graduating class to obtain national accreditation.

2.5.4 Denial or Withdrawal of Initial Approval

2.5.4.1 Conditions that may result in denial of initial approval.

2.5.4.1.1 Failure to meet nursing education standards.

2.5.4.1.2 Failure to meet the requirements of Phase I or Phase II within one year of the initial application date.

2.5.4.2 Conditions that may result in withdrawal of initial approval.

2.5.4.2.1 Initial or subsequent graduating class within the first three (3) years of operation with a NCLEX pass rate of less than 60%.

2.5.4.2.2 Conclusion of three (3) consecutive years of operation with only initial approval and a NCLEX pass rate of less than 80% for each year.

2.5.4.2.3 Failure to remain in compliance with the Board's Rule and Regulations Section 2 as evidenced by continued communication(s) from the Board to the Program Director.

2.5.4.2.4 Failure to graduate the initial class of students within the stated timeframe of the curriculum.

2.5.4.2.5 Removal of approval from the body granting the authority to confer a degree, diploma or certificate of completion.

2.5.4.2.6 Failure to correct identified deficiencies within the time specified.

2.5.4.2.7 Failure to obtain national program accreditation.

2.5.4.3 Procedure for denial or withdrawal of initial approval

2.5.4.3.1 If the Board determines that any approved nursing education program is not maintaining the standards required by this chapter the Board shall give written notice thereof, specifying the deficiency and the time within which the same shall be corrected to the program.

2.5.4.3.2 The Board shall withdraw such program's approval if it fails to correct the specified deficiency within the time specified.

2.5.4.3.3 Such nursing education program may request, upon written application, a hearing on the Board's proposal to withdraw.

2.5.4.3.4 The Board may extend the period for correcting specified deficiency upon good cause being shown.

2.5.5 Procedure for Continuing Full Approval

2.5.5.1 Each nursing education program shall be accredited by a Board-approved national accrediting agency for nursing education and must submit a copy of the self-study document and the letter of notification of accreditation status following the accreditation/re-accreditation visit. This is contingent on the program remaining accredited and sharing copies of all correspondence related to compliance with the national accrediting agency's recommendations. Extraneous material will be disseminated to Board Members at the discretion of the Executive Director in consultation with the Board President.

2.5.5.2 Interim (site) visits may be made at any time either by request or as deemed necessary by the Board, with advance notice. At least one of the visitors shall be a nurse educator who has curriculum expertise at the level of the program being reviewed.

- 2.5.5.3 The Board shall monitor and analyze various sources of information regarding program performance, including but not limited to: Periodic site visits and or reports; accreditation visits and reports; results of ongoing program evaluations; other sources of information regarding achievement of program outcomes such as student retention and attrition, faculty turnover, complaints regarding program, and trend data regarding NCLEX performance.
- 2.5.5.4 Continuing approval will be granted upon the Board's verification that the program is in compliance with the Board's Nursing Education Standards in 2.4.
- 2.5.6 Procedure for Annual Review of Nursing Education Programs
  - 2.5.6.1 The Practice and Education Committee of the Board shall review the annual and self-evaluation reports of the programs. They will compile a summary with recommendations to report to the Board of Nursing.
  - 2.5.6.2 Following review of the reports from the programs, written notification of the action taken at the regularly scheduled board meeting, including any recommendations, shall be sent to the appropriate administrative officers of the school. This will include notification of either continuing full approval or conditional approval (probation). This could include notification of the Board's intention to conduct a site visit.
- 2.5.7 Site Visits
  - 2.5.7.1 For any site visit, the Board President shall designate the Board members who are to make the site visits and the chair person of the site visit team. At least one member of each team shall be a nurse educator who has curriculum expertise at the level of the program being reviewed.
  - 2.5.7.2 The site visit may be made by a Board member(s) and an optional nursing education consultant, the latter with special expertise at the same level of nursing education as the program. The consultant shall be selected from a list of qualified persons submitted by the nursing program and approved by the Board. Costs associated with the hiring of the consultant shall be borne by the program.
  - 2.5.7.3 The Board will indicate in advance any clinical areas they wish to visit.
  - 2.5.7.4 The school shall schedule separate interviews for the visitors with:
    - 2.5.7.4.1 The nurse administrator of the program
    - 2.5.7.4.2 The faculty
    - 2.5.7.4.3 Representative students from each level
    - 2.5.7.4.4 Others as deemed appropriate by the school or the Board.
    - 2.5.7.4.5 The school shall have records available for visitor review, including:
      - 2.5.7.4.5.1 Committee minutes
      - 2.5.7.4.5.2 Course Materials
      - 2.5.7.4.5.3 Evaluation data regarding the entire program
      - 2.5.7.4.5.4 Other materials as specified by the site visit team
- 2.5.8 Conditional Approval/Probation
  - 2.5.8.1 Deficiencies sufficient to warrant a determination of conditional approval/probation may include one or more of the following:
    - 2.5.8.1.1 Failure to adhere to the school's stated philosophy and curriculum objectives.
    - 2.5.8.1.2 Repeated violations of stated academic and/or admission policies.
    - 2.5.8.1.3 Failure to maintain a faculty and administration of adequate size and qualifications.
    - 2.5.8.1.4 Use of students for nursing services or other purposes that is not primarily educational.
    - 2.5.8.1.5 Failure to admit and retain students and/or hire and promote faculty and other personnel without discrimination as to age, race, religion, sex, sexual preference, national origin, or disability.
    - 2.5.8.1.6 Failure to attain an eighty percent (80%) pass rate on the licensure examination for first time candidates in any three consecutive academic years.
  - 2.5.8.2 Any other deficiencies that, in the opinion of the Board, detrimentally affect the education process and ability to meet any standard in 2.4 of this Section.
  - 2.5.8.3 Upon written notification of conditional approval/probation, the program director shall submit an action plan no less than two (2) weeks preceding the Board meeting designated in the notification.
    - 2.5.8.3.1 The action plan shall include identification of the:
      - 2.5.8.3.1.1 Deficiency(ies)
      - 2.5.8.3.1.2 Proposed corrective action(s)

- 2.5.8.3.1.3 Objective (measurable) measures of success
- 2.5.8.3.1.4 Projected timeline to remediate the deficiency(ies)
- 2.5.8.3.2 The action plan will be presented by the school's program director at a regularly scheduled meeting of the Board. The program director will receive notification of the date for the presentation in writing.
- 2.5.8.3.3 The Board may approve the plan as submitted, recommend revisions, or reject the plan. If revisions are required or the plan is rejected, the revised or re-written plan shall be submitted within thirty (30) calendar days of the written notification of the Board's decision. Additional presentations before the Board may be required.
- 2.5.8.3.4 Program progress reports during the term of conditional approval shall be submitted as specified by the Board and are in addition to any other reporting requirement specified in this Section.
- 2.5.8.3.5 Prior to the expiration of the conditional approval period, the program director will meet with the Board during a regularly scheduled Board meeting to review the status of the plan relative to remediation of the deficiency(ies).
- 2.5.8.3.6 A program becomes eligible to have the conditional approval removed when the Board is satisfied that the stated deficiency(ies) has/have been corrected.
  - 2.5.8.3.6.1 If satisfactory remediation has not occurred in the stated timeline, the program director shall submit a written explanation and revised action plan with projected timeline(s). The Board may approve the plan as submitted, or with revision, or may reject the plan and move to propose the withdrawal of the program's approval.
- 2.5.9 Withdrawal of Full Approval
  - 2.5.9.1 The Board may withdraw full approval if it determines that a nursing education program fails substantially to meet the standards for nursing education and fails to correct the identified deficiencies within the time specified.
    - 2.5.9.1.1 Failure to correct deficiencies under conditional approval is grounds for withdrawal of approval.
    - 2.5.9.1.2 The Board shall grant a hearing to such program that make a written application and the Board shall extend the period for correcting specified deficiency upon good cause being shown.
  - 2.5.9.2 Any program that has its full approval withdrawn by the Board must comply with the regulations governing closure of a nursing program.
- 2.5.10 Closure of a Nursing Program
  - 2.5.10.1 The controlling institution shall:
    - 2.5.10.1.1 Submit written notification to the Board of its intent to close the nursing program.
    - 2.5.10.1.2 Provide for the completion of the nursing program for all students currently enrolled.
    - 2.5.10.1.3 Safeguard the quality of the educational program for these remaining students.
    - 2.5.10.1.4 Provide for the permanent retention of records of students and graduates.
    - 2.5.10.1.5 Notify the Board in writing as to the location of records and where requests for records may be sent.
- 2.5.11 Program Changes for Programs with Full Approval
  - 2.5.11.1 Program changes requiring Board of Nursing prior approval:
    - 2.5.11.1.1 Changes in the philosophy and/or objectives of the program
    - 2.5.11.1.2 Changes in the overall curriculum plan including conversion to online or simulation clinical learning experiences
      - 2.5.11.1.2.1 Online and distance learning programs must provide the same types of resources and students must be taught by qualified faculty, both in didactic and clinical experiences as defined in this Section.
    - 2.5.11.1.3 Changes in the administrative leadership, including program director, or sponsorship of the program.
  - 2.5.11.2 Procedure for approval of program change(s):
    - 2.5.11.2.1 Change(s) will not be made without review and approval of the Board prior to the change(s).
    - 2.5.11.2.2 The program director of the nursing education program shall submit to the Board a written plan outlining the change(s) proposed that includes:
      - 2.5.11.2.2.1 Description of the change
      - 2.5.11.2.2.2 Rationale for the change

2.5.11.2.2.3 Relationship of the proposed change to the present program

2.5.11.2.3 A copy of the written plan and request shall be submitted to the Board at least one (1) month prior to the Board meeting at which time the request will be reviewed and acted upon.

2.5.11.2.4 A written decision of the Board will be sent to the program director.

**1 DE Reg. 1883 (06/01/98)**

**3 DE Reg. 1373 (04/01/00)**

**15 DE Reg. 685 (11/01/11)**

**17 DE Reg. 1095 (05/01/14)**

**17 DE Reg. 1193 (06/01/14)**

**19 DE Reg. 432 (11/01/15)**

**21 DE Reg. 735 (03/01/18)**

**23 DE Reg. 130 (08/01/19)**

**23 DE Reg. 682 (02/01/20)**

**25 DE Reg. 786 (02/01/22)**

### **3.0 Nursing Refresher Courses**

#### **3.1 Statement of Purpose**

A nursing refresher course is required for Registered and Licensed Practical Nurses who are presently ineligible for endorsement or reinstatement of licensure because they fail to satisfy the active employment requirement of a minimum of 1000 practice hours in the past five years or 400 nursing practice hours in the past two years.

3.1.1 Nurses successfully completing an approved refresher course may apply for licensure by endorsement, reinstatement, or renewal and may resume practice with an active license.

3.1.2 An orientation program does not take the place of a refresher course.

#### **3.2 Course Content**

3.2.1 In accordance with the Nurse Practice Act, the design of the course for the Registered and the Licensed Practical Nurse shall incorporate evidence based practice and adult teaching/learning methods appropriate to meet program outcomes.

3.2.2 Course content for both Registered and Licensed Practical Nurses shall include but not be limited to a review of the curriculum content in Section 2.0 under 2.4.1.7.5.3.

3.2.3 The Registered and the Licensed Practical Nurse refresher course content will be presented at the appropriate level of practice and shall include:

3.2.3.1 infectious disease/blood borne pathogens,

3.2.3.2 informatics,

3.2.3.3 bioterrorism response and disaster planning,

3.2.3.4 current professional/practical nursing trends,

3.2.3.5 legal and ethical aspects of professional/practical nursing,

3.2.3.6 the nursing process,

3.2.3.7 communication skills,

3.2.3.8 pharmacology,

3.2.3.9 fluid and electrolytes,

3.2.3.10 diagnostic tests and commonly used lab test values,

3.2.3.11 nutrition,

3.2.3.12 Basic Life Support, and

3.2.3.13 basic nursing procedures.

3.2.4 The refresher course for the Registered and the Licensed Practical Nurse shall have a minimum of 40 hours of theory and a minimum of 80 hours of clinical practice.

3.2.5 Each course shall include sufficient theory and supervised clinical practice to meet the course objectives.

#### **3.3 Clinical Facilities**

3.3.1 The clinical facilities shall be:

3.3.1.1 Able to support the necessary clinical practice.

3.3.1.2 Licensed by the State and/or accredited by a national accrediting agency where the course is being conducted.

3.3.1.3 An acute and/or long-term care facility.

- 3.4 Director and Faculty Qualifications
  - 3.4.1 The course director shall be a Registered Nurse licensed in Delaware or a compact state with a minimum of a Master's of Science in Nursing degree.
  - 3.4.2 The faculty and preceptors shall be Registered Nurses licensed in Delaware or a compact state with a minimum of a Bachelor's of Science in Nursing degree or have completed all requirements for a BSN in an RN-to-MSN Program.
- 3.5 Evaluation
  - 3.5.1 There shall be an evaluation that will measure the application of the knowledge, skills and abilities needed to return to active nursing practice.
  - 3.5.2 Evaluation tools that may be used include:
    - 3.5.2.1 Evaluation of clinical competence for safe nursing practice
    - 3.5.2.2 Written assignments
    - 3.5.2.3 Examination
  - 3.5.3 The course director shall verify to the Board of Nursing in writing that each nurse participant has successfully completed the refresher course.
- 3.6 Procedure for Approval and Continuing Approval
  - 3.6.1 Refresher courses offered to meet requirements for Registered and Licensed Practical Nurse licensure, renewal, endorsement, reinstatement or reactivation shall be approved by the Board and follow the criteria in Section 2.0-Nursing Education Programs.
  - 3.6.2 Applications for course approval shall be approved by the Board prior to student enrollment.
  - 3.6.3 Applications for approval shall include:
    - 3.6.3.1 Name of the entity offering the course
    - 3.6.3.2 Type of course:
      - 3.6.3.2.1 Registered Nurse refresher program
      - 3.6.3.2.2 Licensed Practical Nurse refresher program
    - 3.6.3.3 The course director, faculty and preceptor(s) must submit their curriculum vitae to the Board and meet all requirements as identified in Section 2.0.
    - 3.6.3.4 Course outline, including:
      - 3.6.3.4.1 Theoretical and clinical objectives
      - 3.6.3.4.2 Course content
      - 3.6.3.4.3 Hours of theory and practice
      - 3.6.3.4.4 Facilities used for clinical practice
      - 3.6.3.4.5 Assignments
      - 3.6.3.4.6 Evaluation procedures
  - 3.6.4 Approval shall be considered after the program has been reviewed and has met the standards of the Board. Written notification of the action taken at a regularly scheduled board meeting, including any recommendations, shall be sent to the director of the course.
  - 3.6.5 When any course change is projected, such as, but not limited to, course hours, faculty or facility, a plan shall be submitted to the Board including:
    - 3.6.5.1 Proposed change(s)
    - 3.6.5.2 Rationale for the change(s)
    - 3.6.5.3 Relationship of the proposed change(s) to the present course(s)
    - 3.6.5.4 Five copies of the proposed changes shall be submitted to the Board at least 14 days prior to the Board meeting at which the request will be considered.
  - 3.6.6 The entity offering the course shall submit a copy of an Annual Report every year prior to December 1 using a format supplied by the board.
  - 3.6.7 A site visit may be made at the Board's discretion.

**15 DE Reg. 685 (11/01/11)**

**19 DE Reg. 432 (11/01/15)**

#### **4.0 Alternate Supervised Practice Plan for Nurses Inactive in Practice If No Refresher Course Is Available within a Reasonable Distance or Time**

- 4.1 Statement of Purpose



- 4.1.1 A supervised practice plan (SPP) is available to provide opportunities for a nurse who is presently ineligible for endorsement, reinstatement, or renewal of licensure because the nurse fails to satisfy the 1000 practice hours in the past five years or a minimum of 400 nursing practice hours in the past two years. The SPP only applies if a Delaware Board of Nursing approved refresher course is not available within a reasonable distance or time.
- 4.1.2 The SPP is an alternative to the refresher course and it is used to review and update nursing knowledge and skills in order to become licensed and resume active practice.
- 4.1.3 An orientation program does not take the place of a refresher course.
- 4.2 Procedural Guidelines
  - 4.2.1 The participating facility must be an acute care or long term care skilled nursing healthcare facility.
  - 4.2.2 The nurse applicant must contact potential healthcare facilities to obtain approval to utilize a supervised practice plan to obtain the practice hours required. A copy of the SPP clinical skills checklist must be presented to the Chief Nurse Executive of the healthcare facility.
  - 4.2.3 Upon agreeing with an applicant to provide a period of supervised practice for the assurance of minimal competency, the Chief Nurse Executive of the healthcare facility shall verify this agreement in writing by submitting a letter to the Board. The letter should include a statement that the Chief Nurse Executive has reviewed the SPP clinical skills checklist and that the healthcare facility is able to provide the opportunities to demonstrate completion of the skills on the checklist.
  - 4.2.4 Upon receipt of the supervised practice agreement letter, a temporary permit to practice will be issued by the Board to the nurse for presentation to the health care facility. The temporary permit must remain active during the supervised practice period, and it is the applicant's responsibility to renew the temporary permit if it will expire prior to completion of the 240 hours.
  - 4.2.5 The Chief Nurse Executive shall designate a Registered Nurse to provide the supervised clinical nursing practice of no less than 240 hours. The Chief Nurse Executive is accountable for the quality of the supervised experience and the accurate assessment of the competence of the nurse applicant.
  - 4.2.6 Upon completion of the required hours, the Chief Nurse Executive shall submit a completed SPP clinical skills checklist confirming satisfactory completion of the skills and a recommendation regarding the licensure reinstatement, endorsement, or renewal of the nurse applicant.
  - 4.2.7 Based on the submitted documentation, the Board may reinstate, endorse, or renew the license or issue a letter of proposed to deny licensure.
    - 4.2.7.1 If denied licensure, the applicant will be notified of his or her right to a hearing for reconsideration before the Board of Nursing.

15 DE Reg. 685 (11/01/11)

19 DE Reg. 432 (11/01/15)

## 5.0 Limited Lay Administration of Medications (LLAM)

- 5.1 The following words and phrases, as used in this rule, shall be defined as follows:
  - "**Core Curriculum**" means the educational course of study developed and approved by the Board of Nursing.
  - "**Eligible Programs**" means those programs specified under Title 24, Chapter 19 that may utilize LLAM.
  - "**LLAM Trained UAP**" means unlicensed assistive personnel who have completed a Board of Nursing approved Limited Lay Administration of Medications curriculum.
  - "**Medication Error**" means engaging in any preventable event that may cause or lead to inappropriate medication use or patient harm while the medication is in the control of the UAP.
  - "**Module**" means a Board of Nursing approved educational training unit that is eligible program specific and used in addition to the core curriculum.
- 5.2 LLAM Training
  - 5.2.1 Eligible programs utilizing LLAM must ensure all unlicensed assistive personnel have completed a core curriculum given by a qualified instructor before giving a prescribed medication to a client, patient, resident, or student. Eligible program specific modules may be required by the program. Both the core curriculum and any module must be completed by all unlicensed assistive personnel as approved with no deviations.
  - 5.2.2 Eligible programs must keep a current list of all LLAM Trained UAPs, including supporting documentation. Eligible programs must also maintain a current list of all qualified instructors. The list of qualified instructors shall be submitted annually to the Board on or before August 1.
  - 5.2.3 Unlicensed assistive personnel who complete a core curriculum and any eligible program specific module, obtain at least an 85% on the written examination, and successfully demonstrate medication

administration, will be provided a completion letter, indicating the recipient is a LLAM Trained UAP. No certificates will be issued.

5.2.4 A core curriculum or module may be presented in a class size limited to a 1:20 student ratio. The Board of Nursing may waive this ratio limit upon good cause shown.

### 5.3 LLAM Instructor Qualifications

5.3.1 Qualified instructors must initially meet the following criteria:

5.3.1.1 Active Delaware or compact state RN license in good standing;

5.3.1.2 One year of clinical nursing experience, including experience in medication administration;

5.3.1.3 At a minimum observation of the presentation and successful completion of the core curriculum and any eligible program specific module to be taught;

5.3.1.4 Presentation of at least one component of the core curriculum and any eligible program specific module to be taught with observation by a qualified instructor. Documentation of observation must be provided to the eligible program.

5.3.2 Qualified instructors must present a minimum of one core curricula and eligible program specific module per year. If an instructor fails to present in a single year, that instructor must again complete the core curriculum and any eligible program specific module before s/he will be deemed a qualified instructor.

5.3.3 All instructors of courses related to "Assistance with Self-Administration of Medications" approved by the Board as of July 1, 2015 will qualify as LLAM instructors pursuant to regulation 5.3 without being required to satisfy regulations 5.3.1.3-5.3.1.4.

### 5.4 LLAM Trained UAP Qualifications

5.4.1 All LLAM Trained UAPs must meet the following criteria:

5.4.1.1 Ability to read, speak and write English and demonstrate competency in basic math skills.

5.4.1.2 Minimum age 18 years or older.

5.4.1.3 Current CPR certification.

5.4.1.4 Successful completion of a core curriculum and any applicable eligible program specific module.

5.4.2 LLAM trained UAPs are required to renew their status annually by successfully demonstrating competency in the LLAM process with no errors and by achieving a minimum score of 85% on the annual review exam. A letter of completion will be issued after successful renewal of competencies each year.

5.4.3 LLAM Trained UAPs may:

5.4.3.1 Participate solely within the confines of the core curriculum and any applicable program eligible module.

5.4.3.2 Administer medication without assessing the appropriateness and/or effectiveness of the prescribing practitioner's medication order.

5.4.3.3 Administer injectable emergency medications pursuant to the core curriculum.

5.4.3.4 Only administer approved medications with a licensed prescriber's order.

5.4.4 LLAM Trained UAPs may not:

5.4.4.1 Administer medications through a feeding tube, including nasogastric, gastrostomy, or jejunostomy tubes.

5.4.4.2 Be held responsible for assessing pharmacy accuracy either by identifying the appearance of the medication or assessing proper medication dosing for medications released by the pharmacy.

### 5.5 Medication Errors

5.5.1 All eligible programs must maintain a monthly LLAM error report, retained on site and readily available for inspection at all times.

5.5.2 If a LLAM Trained UAP commits two medication errors within a six month timeframe, he/she must repeat the entire LLAM training program before resuming LLAM duties.

**3 DE Reg. 1373 (04/01/00)**

**19 DE Reg. 432 (11/01/15)**

**24 DE Reg. 379 (10/01/20)**

## 6.0 Requirements and Procedures for Licensure

### 6.1 Examinations

6.1.1 The Board declares that the National Council Licensure Examination-RN (NCLEX-RN) and the National Council Licensure Examination-PN (NCLEX-PN) are the required examinations for licensure in Delaware. The Board of Nursing has the authority to review the content and validity of examinations.

- 6.1.2 Up to July 1982, the passing score for professional nurse candidates was a standard score of 350 on each test of the State Board Test Pool Examination.
  - 6.1.3 Effective July 1, 1982, the passing score for Registered Nurse candidates was 1600 on the NCLEX-RN and 350 on NCLEX-PN.
  - 6.1.4 Effective July 1, 1988, results are reported and recorded as pass or fail.
  - 6.1.5 All applicants must take the examination within one year of graduation. If an applicant does not take the examination within one year of graduation s/he must petition the Board for specific authorization to take the examination. Such petitions will be granted by the Board upon a showing of good cause.
  - 6.1.6 All applicants who take but fail to pass the examination within one year of graduation must petition the Board for specific authorization to retake. Such petitions will be granted by the Board upon a showing of good cause.
  - 6.1.7 Applicants who do not take or pass the examination within five years of graduation will not be granted permission to take or retake the examination.
  - 6.1.8 To be eligible to take the examination for licensure for practical nursing, the applicant must be a graduate of a Board approved program for practical nursing. A graduate of a program for professional nursing will be denied permission to take the examination for licensure as a practical nurse.
  - 6.1.9 The NCLEX examination registration application shall be filed with the test vendor with a non-refundable fee.
  - 6.1.10 The candidate shall file a completed and notarized Delaware application for licensure by examination, along with the required non-refundable fee.
  - 6.1.11 In addition, the candidate shall file a signed official school transcript indicating the date of graduation or date degree was conferred. If this is not possible, a certifying letter from the director indicating the candidate had completed the program will be accepted until an official transcript is available.
  - 6.1.12 The candidate shall present the authorization to test document issued by the test vendor in order to be admitted to any portion of the examination.
- 6.2 Temporary Permits Prior to Examination
- 6.2.1 Prior to the employment starting date the candidate shall submit a written request for a temporary permit on a form provided by the Board along with the required non-refundable fee.
  - 6.2.2 The temporary permit is a limited license authorizing professional or practical nursing practice only at the institution employing the graduate, and only under supervision and pending the results of the examination.
  - 6.2.3 Any graduate who has completed the requirements of a state board of nursing approved program of professional or practical nursing and who has filed for licensure by examination in Delaware may be employed in professional or practical nursing, working under the direct supervision of a Registered Nurse pending results of the licensing examination.
  - 6.2.4 Direct supervision means supervision by a Registered Nurse practicing on the assigned unit during the same time period. The assigned patient care unit cannot exceed forty patients.
  - 6.2.5 In order to practice nursing in Delaware with a temporary permit, a recent graduate of a state board of nursing approved program of nursing in another state must file an application for licensure before beginning to practice. If the graduate has taken, or is scheduled to take, the NCLEX Examination in the state in which the program is located, the applicant shall file an application for licensure by endorsement in Delaware.
  - 6.2.6 The Board of Nursing will verify employment and the start date before issuing the permit.
  - 6.2.7 If extenuating circumstances exist, the candidate may apply to the Board for reissuance of a temporary permit. If the reason is acceptable, the permit may be reissued. (Refer to Section 6.7, Temporary Permits)
- 6.3 Test Results
- 6.3.1 Notification occurs for the successful candidate in the following order: the candidate and director of the school program, and for the unsuccessful candidate: the candidate, employer and the director of the school program.
  - 6.3.2 A successful candidate will receive the test results and a permanent license number.
  - 6.3.3 A letter to unsuccessful candidates will accompany the test results to advise them of their status and the procedure to be followed for re-examination.
  - 6.3.4 Candidates for licensure who fail the National Council Licensure Examination may not be employed as a graduate nurse or a graduate practical nurse, are not permitted to practice nursing as defined in the Law, and must return the temporary permit upon receipt of the failure notification.
    - 6.3.4.1 The candidate's employer shall be notified that the temporary permit is not valid.

- 6.3.5 There is a non-refundable fee for each re-examination request. Candidates may retake NCLEX at 45 day intervals within a one year period from graduation and not thereafter without petitioning the Board for specific authorization to retest after the one year period for a total of five years.
- 6.3.6 An applicant who petitions to retake NCLEX more than two years from graduation must successfully complete or have completed an examination review course within the six months immediately prior to a petition to retake the examination.
- 6.4 Requirements for Applicants Graduating from International or Puerto Rican Programs
  - 6.4.1 All applicants for licensure must submit the following:
    - 6.4.1.1 A completed, signed, and notarized application on a form provided by the Board;
    - 6.4.1.2 The required non-refundable fee;
    - 6.4.1.3 A CES Report with English language proficiency (ELP) issued by the Commission on Graduates of Foreign Nursing Schools or other Board approved agency to verify the program from which applicant is a graduate meets the approved standards adopted by the Board (24 Del.C. §§1910, 1914) and subsection 2.4. (If the program does not include the areas specified in the above curricula, the deficiencies must be made up before the applicant is eligible to take NCLEX); and
    - 6.4.1.4 Official English translations of all required credentials;
    - 6.4.1.5 An employment reference form supplied by the Board from:
      - 6.4.1.5.1 The applicant's immediate past employer(s) in the past six months. Such reference(s) should be given by the nursing employer, or if the immediate past employer is not a nursing professional, by the applicant's immediate supervisor (e.g. physician, director, manager). In the case of someone engaged in solo practice or who is self-employed, the reference shall be provided by at least one professional colleague with whom the individual has most recently worked for at least six months in the past five years.
      - 6.4.1.5.2 In the event of no previous nursing employer, the Director of the applicant's approved nursing education program within two years of graduation.
  - 6.4.2 Applicants previously licensed or credentialed in any other state, territory, or country must also submit a certificate of licensure or credential from any state, territory, or country where currently or previously licensed. The certificate must identify the state, territory, or country of licensure or credential; the license number; and status of the license or credential.
  - 6.4.3 Applicants are allowed one year from the date of Board review of the completed application to make up all deficiencies, including taking the initial examination;
  - 6.4.4 Applicants may be issued a temporary permit and may be employed in professional or practical nursing if the applicant has met all of the Board's prerequisites for taking the NCLEX in Delaware and is scheduled to do so;
  - 6.4.5 Applicants may work only at the institution employing the applicant, under the direct supervision of a registered nurse pending results of the first licensing examination.
  - 6.4.6 Applicants must meet all other requirements for licensure.
  - 6.4.7 RN applicants who meet the requirements listed above are eligible to take NCLEX-RN. LPN applicants who meet the requirements listed above are eligible to take the NLCEX-PN. In order to be licensed, all applicants must take and pass the respective NCLEX.
    - 6.4.7.1 Applicants must take the NCLEX within one year of either graduation or the date last employed as a nurse in any territory or country. Applicants who fail to do so must petition the Board for specific authorization to take the examination. Such petitions will be granted by the Board upon a showing of good cause;
    - 6.4.7.2 Applicants who take but fail to pass the examination within one year must petition the Board for specific authorization to retest. Such petitions will be granted by the Board upon a showing of good cause;
    - 6.4.7.3 Applicants may retake NCLEX at 45 day intervals within a one year period from graduation and not thereafter without petitioning the Board for specific authorization to retest after the one year period for a total of five years;
    - 6.4.7.4 Applicants who do not take or pass the examination within five years of graduation or the date last employed as a nurse in any territory or country will not be granted permission to take or retake the examination.
  - 6.4.8 Canadian applicants writing the Canadian Nurses' Association Testing Service (CNATS) Examination from 1970 - 1979 are eligible for licensure by endorsement.

- 6.4.9 Canadian applicants writing the Canadian Nurses' Association Testing Service (CNATS) Examination, first administered August 1980, are eligible for licensure by endorsement with a passing score of 400. (September 15, 1981)
- 6.4.10 Canadian applicants writing the Canadian Nurses' Association Testing Service (CNATS) Examination after that examination became graded on a pass or fail basis are not eligible for licensure by endorsement and must pass the NCLEX. (June 8, 1996)
- 6.5 Licensure by Endorsement
  - 6.5.1 All endorsement applicants shall:
    - 6.5.1.1 Submit a completed, signed, and notarized application on a form provided by the Board.
    - 6.5.1.2 Remit the required non-refundable fee.
    - 6.5.1.3 Attach to the application a photocopy of a current active or inactive license indicating date of expiration.
    - 6.5.1.4 Provide official verification of original licensure in another jurisdiction on a form acceptable to the Board.
    - 6.5.1.5 Request a reference on a form supplied by the Board from:
      - 6.5.1.5.1 the applicant's immediate past employer(s) in the past six months. Such reference(s) should be given by the nursing employer, or if the immediate past employer is not a nursing professional, by the applicant's immediate supervisor (e.g. physician, director, manager). In the case of someone engaged in solo practice or who is self-employed, the reference shall be provided by at least one professional colleague with whom the individual has most recently worked for at least six months in the past five years.
      - 6.5.1.5.2 in the event of no previous nursing employer, the Director of the applicant's approved nursing education program within two years of graduation. Any unsatisfactory reference shall be brought to the attention of the Board for review.
  - 6.5.1.6 If the applicant has not been employed in nursing a minimum of 1000 hours in the past five years or a minimum of 400 hours of nursing practice within the previous two years, the applicant must give evidence of satisfactory completion of an approved refresher program within a two-year period before licensure by endorsement will be granted. In the event no refresher course is available the Board may consider alternate methods of evaluating current knowledge in professional/practical nursing.
  - 6.5.1.7 Submit a completed report on a form provided by the Board office, listing and attesting to the completion of all continuing education requirements for the two years immediately preceding application, unless submitting a refresher course completion certificate.
- 6.5.2 All completed applications for endorsement will be submitted to the Board for consideration of approval.
- 6.5.3 Issuance of a license shall be considered as notice of approval of the application.
- 6.5.4 All applications will be purged in accordance with Division policy.
- 6.5.6 Registered Nurses
  - 6.5.6.1 The Board may issue a license to practice professional nursing as a Registered Nurse by endorsement, without a written examination, to an applicant who has been duly licensed as a Registered Nurse under the laws of another state, territory, or foreign country if, in the opinion of the Board, the applicant meets the qualifications for licensure in this state.
  - 6.5.6.2 As of 1950 and thereafter, the State Board Test Pool Examination for professional nursing is the licensing examination authorized for use by all boards of nursing in jurisdictions in the United States. (In July 1982, the examination was re-titled National Council Licensure Examination-RN (NCLEX-RN). Prior to this date, examinations constructed by state boards of nursing are acceptable, providing such examinations include all of the required clinical areas: medicine, surgery, obstetrics-gynecology, pediatrics, psychiatry). Until 1953, the passing score required for each of the tests was 70%.
  - 6.5.6.3 Those applicants graduating as of 1953 and thereafter are required to show evidence of clinical experience in medical nursing, surgical nursing, psychiatric nursing, nursing of children, and obstetrical nursing.
  - 6.5.6.4 An applicant for licensure by endorsement must have passed the NCLEX-RN.
- 6.5.7 Licensed Practical Nurses
  - 6.5.7.1 Effective October 1, 1963, waiver or equivalency licensure is not acceptable in Delaware. The Board may issue a license to practice nursing as a Licensed Practical Nurse, without a written examination, to an applicant who has been licensed as a Practical Nurse or a person entitled to

perform similar services under a different title under the laws of any state, territory or foreign country if, in the opinion of the Board, the applicant has the qualifications and demonstrates convincing evidence that the applicant's education, training, experience and conduct have been sufficient as required for the licensing of practical nurses.

6.5.7.2 Candidates for licensure are required to have theory and clinical experience in medical nursing, surgical nursing, psychiatric nursing, obstetrical nursing, and nursing of children.

6.5.7.3 A licensed practical nurse applicant for licensure by endorsement must have passed the NCLEX-PN.

## 6.6 Licensure: Biennial Renewal and Reinstatement

### 6.6.1 Biennial Renewal of Licensure

6.6.1.1 In order to practice nursing in Delaware with or without financial compensation, Registered Nurses or Licensed Practical Nurses who are duly licensed under any provision of 24 **Del.C.** Ch. 19 shall renew their licenses biennially, on dates established by the Division of Professional Regulation and must:

6.6.1.1.1 Complete the online renewal application, along with the required non-refundable fee, by midnight of the last day of the renewal period. Failure to do so will result in a penalty fee;

6.6.1.1.2 Meet the continuing education requirements set forth in Section 9.0;

6.6.1.1.3 Submit information related to the nurse's practice and demographics for the purpose of collecting nursing workforce data; and

6.6.1.1.4 Have practiced a minimum of 1,000 hours of nursing practice within the previous five years or a minimum of four hundred hours of nursing practice within the past two years. In the event that applicant for renewal or reinstatement of licensure has not been actively employed or practicing in professional or practical nursing in the past five years, the applicant will be required to give evidence of satisfactory completion of a board-approved professional or practical nursing refresher program within a two-year period prior to the application for renewal before licensure will be granted. In the event no refresher course is available the Board may consider alternate methods of evaluating current knowledge in professional or practical nursing.

6.6.1.2 The applicant shall indicate nursing employment within the past five years before the renewal application will be processed. A minimum of 1,000 hours of nursing practice within the past five years or a minimum of four hundred hours of nursing practice within the past two years is required for licensure by renewal or reinstatement. Verification of completion of the practice hours will occur for a minimum of 3% of the total number of licensees with notice of the audit within six months following the renewal of licensure. See Section 9.0, for Mandatory Continuing Education requirements.

6.6.1.2.1 Upon receipt of such notice, the licensee must submit verification of compliance for the period being audited. Verification will be done on a form supplied by the Board office that includes employer's name, title, address, telephone number, job title, and dates of employment.

6.6.1.2.2 The employer will submit the completed form directly to the Board office.

6.6.1.2.3 An unsatisfactory verification or audit shall result in Board action.

6.6.1.2.4 Failure to notify the Board of a change in mailing address will not absolve the licensee from audit requirements.

6.6.1.3 A notice for license renewal will be sent at least 12 weeks prior to the expiration date of current licensure.

6.6.1.4 Failure to receive the renewal notice shall not relieve the licensee of the responsibility for renewing their license by the expiration date.

6.6.1.5 A license may be renewed up to sixty-days past the license's expiration date, by submitting the penalty fee and proof of completion of continuing education requirements. The license is considered lapsed and the nurse is not permitted to work until the license is renewed. Licensees who fail to renew during the renewal period or during the 60-day late renewal period must apply for reinstatement.

6.6.1.6 Licenses that have lapsed may be reinstated by the Board upon satisfactory explanation by the licensee of failure to renew and after payment of a penalty fee.

6.6.1.7 Registered Nurses - the license shall be valid for no more than two calendar years expiring each odd-numbered year on dates established by the Department of State.

6.6.1.8 Licensed Practical Nurses - the license shall be valid for no more than two calendar years expiring each even-numbered year on the dates established by the Department of State.

#### 6.6.2 Reinstatement of Licensure

6.6.2.1 Reinstatement of a lapsed license is required after the expiration of the late renewal period. All applicants shall have a minimum of 1,000 hours of nursing practice within the previous five years or a minimum of four hundred hours of nursing practice within the past two years before licensure by reinstatement will be granted. The practice of nursing can be with or without financial compensation. In the event the applicant has not been actively employed in nursing as described above, the applicant will be required to give evidence of satisfactory completion of a refresher program with an approved agency within two years prior to reinstatement. In the event no refresher course is available, the Board may consider alternate methods of evaluating current knowledge in professional or practical nursing defined in Section 4.0.

6.6.2.2 The applicant shall file ~~a notarized~~ an online application for reinstatement of licensure. The application shall be accompanied by a satisfactory reference from a current or previous employer, required continuing education documents, information related to the nurse's practice and demographics for the purpose of collecting nursing workforce data, a renewal fee and penalty fee.

6.6.3 It is unprofessional conduct and a violation of Delaware Law to practice without a license. The Board may refuse a license or refuse to renew a license of a professional nurse or a practical nurse who practices without a current license.

#### 6.6.4 Reinstatement Hearings

6.6.4.1 Hearings for consideration of licensure reinstatement may be held for those applicants who file for reinstatements more than 60 days after the renewal period and who have been practicing nursing without a current license, or who have submitted an unsatisfactory explanation for failure to renew.

6.6.4.2 A notice of hearing shall be sent to the Registered Nurse or Licensed Practical Nurse. The hearing shall be conducted in accordance with the Administrative Procedures Act and the Nurse Practice Act.

6.6.4.3 The Board shall make determination for reinstatement of licensure or shall determine that the Registered Nurse or Licensed Practical Nurse shall be subject to the penalties provided for violations of the Nurse Practice Act.

6.6.4.4 Upon determination that licensure shall be reinstated, the Board shall issue a license to practice nursing.

#### 6.7 Temporary Permits

6.7.1 The temporary permit is a limited license authorizing professional, practical or graduate nursing practice only at the employing institution for no longer than an initial 90 day period.

6.7.2 Nurses who produce current evidence of licensure to practice nursing in another state and who have applied for endorsement may be issued a temporary permit to practice nursing for a maximum of 90 days, if they have been employed in nursing a minimum of 1000 hours in the past five years or a minimum of four hundred hours of nursing practice within the past two years.

6.7.3 A temporary permit to practice nursing for a maximum of 90 days may be issued to persons who have requested reinstatement of their licensure, if they have been employed in nursing a minimum of 1000 hours in the past five years or a minimum of four hundred hours of nursing practice in the past two years.

6.7.4 All applicants seeking temporary permits to practice professional, practical or graduate nursing in Delaware must:

6.7.4.1 Prior to employment starting date, submit a notarized application for endorsement or examination, completing the portion for a temporary permit, and indicating employer.

6.7.4.2 Have been employed in nursing a minimum of 1000 hours in the past five years or a minimum of four hundred hours in the past two years, if applying for reinstatement or endorsement, with current evidence of licensure from another state.

6.7.4.3 Have been accepted as a nurse employee in Delaware. The Board of Nursing will verify employment with the employer and verified documentation will be noted on the application.

6.7.4.4 Have graduated from a State Board of Nursing approved program.

6.7.4.5 Pay a licensure fee which is not refundable.

6.7.5 Upon completion of all requirements, a temporary permit will be issued for no longer than 90 days with subsequent renewal periods of 60 and 30 days sequentially. Temporary Permits issued to a graduate nurse or graduate practical nurse are limited per 6.3.4 of these Rules.

6.7.6 The Executive Director shall:

6.7.6.1 Keep a register of permits.

6.7.6.2 Refrain from issuing a temporary permit in any doubtful situation until further evidence is obtained or until the Board has given approval.

6.7.7 In the absence of the Executive Director, the President may issue a temporary permit with the same restrictions.

## 6.8 Inactive Status

6.8.1 A nurse holding an active license in good standing may be placed on inactive status by the Board. Requests for inactive status shall be submitted to the Board online with the accompanying fee. Inactive status shall be renewed biennially at the time of regular license renewals. While inactive the licensee may not practice nursing in Delaware.

6.8.2 A licensee on inactive status shall use the appropriate title, Registered or Licensed Practical Nurse, followed by (INACTIVE).

6.8.3 A licensee may print a certificate of inactive status from the license record in Delpros.

6.8.4 A notice to renew inactive status will be sent to all persons in inactive status at renewal time. Renewal shall be completed by online application and payment of the renewal fee. An inactive license not renewed shall become expired and will remain expired until the licensee applies for reinstatement.

6.8.5 All applications from persons on inactive status who decide to resume active status must meet all requirements for reinstatement. In the event the applicant has not been actively practicing nursing within the previous five years, the applicant will be required to give evidence of satisfactory completion of a refresher program with an approved agency within two years prior to reactivation, or participate in an alternate Board approved method of evaluating current knowledge in professional or practical nursing. All applicants shall have a minimum of 1000 hours of nursing within the previous five years or a minimum of four hundred hours of nursing practice within the previous two years. See 9.0 for Mandatory Continuing Education requirements.

## 6.9 Change of Name/address

6.9.1 Licensees who legally change their names and wish to change the name on the license, shall provide ~~notarized copies~~ of evidence, such as marriage licenses or court actions.

6.9.2 Notice of change of address shall be submitted online within 30 days of the change. All notices from the Board will be sent to the last address provided by the licensee or applicant to the Board.

**3 DE Reg. 1373 (04/01/00)**

**4 DE Reg. 1500 (03/01/01)**

**15 DE Reg. 685 (11/01/11)**

**15 DE Reg. 1622 (05/01/12)**

**17 DE Reg. 85 (07/01/13)**

**17 DE Reg. 1193 (06/01/14)**

**18 DE Reg. 322 (10/01/14)**

**21 DE Reg. 735 (03/01/18)**

**23 DE Reg. 682 (02/01/20)**

**24 DE Reg. 379 (10/01/20)**

**25 DE Reg. 199 (08/01/21)**

**25 DE Reg. 786 (02/01/22)**

## 7.0 Standards of Nursing Practice

7.1 Nursing practice encompasses several levels of accountability in order to ensure safe, competent practice. At the foundation of accountability are standards of nursing practice developed by general and specialty nursing professional organizations. A second level of accountability is provided by statutes, rules and regulations promulgated by individual states, based upon each state's nurse practice act which defines nursing practice. Nurses are also accountable to the institution or agency where they are employed through institutional policies and procedures. A final level of accountability resides with nurses' self-determination of those aspects of practice they believe themselves competent to perform.

### 7.2 Definitions

**"Standards of Nursing Practice"** are those standards adopted by the Board that interpret the legal definitions of nursing, as well as provide criteria against which violations of the law can be determined. Such standards shall not be assumed the only evidence in civil malpractice litigation, nor shall they be given a different weight than any other evidence.

**"Nursing Process"** includes assessment, diagnosis, outcome identification, planning, implementation and evaluation.



### 7.3 Purpose

The purpose of standards is to establish minimal acceptable levels of safe practice for the Registered and Licensed Practical Nurse, and to serve as a guide for the Board to evaluate safe and effective nursing practice.

7.3.1 The board will not rule on for what purpose a drug is given.

7.3.2 Standards of nursing practice and position statements developed by general and specialty nursing professional organizations may be used to address scope of practice accountability.

7.3.3 Nursing practice occurs where the patient is located.

### 7.4 Standards of Practice, Competencies and Responsibilities for the Registered and Licensed Practical Nurse

7.4.1 Registered and Licensed Practical Nurses shall:

7.4.1.1 Have knowledge of and function within the statutes and regulations governing nursing.

7.4.1.2 Accept responsibility for competent nursing practice.

7.4.1.3 Function as a member of the health team through interdisciplinary and/or interagency consultation and collaboration to provide optimal care, seeking guidance, instruction and supervision as necessary.

7.4.1.4 Contribute to the formulation, interpretation, implementation and evaluation of the objectives and policies related to nursing practice within the employment setting.

7.4.1.5 Participate in evaluating nurses through peer review.

7.4.1.6 Report unsafe nursing practice to the Board and unsafe practice conditions to recognized legal authorities.

7.4.1.7 Practice without discrimination as to age, race, religion, sex, sexual orientation, national origin, gender identity or expression, or disability.

7.4.1.8 Respect the dignity and rights of clients regardless of social or economic status, personal attributes or nature of health problems.

7.4.1.9 Respect the client's right to privacy by protecting confidentiality unless obligated by law to disclose the information.

7.4.1.10 Respect the property of clients, their families and significant others.

7.4.1.11 Teach safe practice to other health care workers as appropriate.

7.4.1.12 Perform waived and moderately complex laboratory point of care testing after appropriate education, including annual competency demonstration and quality control measures for equipment, which are completed and documented.

7.4.1.13 Nurses who perform any special procedures should possess specialized knowledge and competent technical skill in the performance of the procedure, be knowledgeable of the potential complications and adverse reactions which may result from the performance of the procedure, possess the knowledge and skill to recognize adverse reactions, and take appropriate actions.

### 7.5 Standards related to the Registered Nurse.

7.5.1 The Registered Nurse shall conduct and document nursing assessments in accordance with the nursing process. The registered nurse shall assess the health status of individuals and groups by:

7.5.1.1 Collecting objective and subjective data from observations, examinations, interviews, in person or by electronic communication and written records in an accurate and timely manner. The data include but are not limited to:

7.5.1.1.1 Biophysical and emotional status and observed changes;

7.5.1.1.2 Growth and development;

7.5.1.1.3 Ethno-cultural, spiritual, socio-economic and ecological background;

7.5.1.1.4 Family health history;

7.5.1.1.5 Information collected by other health team members;

7.5.1.1.6 Ability to perform activities of daily living;

7.5.1.1.7 Consideration of client's health goals;

7.5.1.1.8 Client knowledge and perception about health status and potential, or maintaining health status;

7.5.1.1.9 Available and accessible human and material resources;

7.5.1.1.10 Patterns of coping and interaction.

7.5.1.2 Sorting, selecting, reporting, and recording the data.

7.5.1.3 Analyzing data.

- 7.5.1.4 Validating, refining and modifying the data by using available resources including interactions with the client, family, significant others, and health team members.
- 7.5.1.5 Evaluating data.
- 7.5.2 Registered Nurses shall establish and document nursing diagnoses that serve as the basis for the strategy of care.
- 7.5.3 Registered Nurses shall develop strategies of care based on the nursing process. This includes, but is not limited to:
  - 7.5.3.1 Prescribing nursing intervention(s).
  - 7.5.3.2 Initiating nursing interventions through giving, assisting and/or delegating care.
  - 7.5.3.3 Identifying priorities in the plan of care.
  - 7.5.3.4 Setting realistic and measurable goals for implementation.
  - 7.5.3.5 Identifying measures to maintain comfort, to support human functions and responses, to maintain an environment conducive to well being, and to provide health teaching and counseling.
- 7.5.4 Registered Nurses shall participate in the implementation of the strategy of care by:
  - 7.5.4.1 Providing care for clients whose conditions are stabilized or predictable.
  - 7.5.4.2 Providing care for clients whose conditions are critical and/or fluctuating, under the direction and supervision of a recognized licensed authority.
  - 7.5.4.3 Providing an environment conducive to safety and health.
  - 7.5.4.4 Documenting nursing interventions and client outcomes.
  - 7.5.4.5 Communicating nursing interventions and client outcomes to appropriate health team members.
- 7.5.5 Registered Nurses shall evaluate outcomes, which may include the client, family, significant others and health team members.
  - 7.5.5.1 Evaluation data shall be documented and communicated appropriately;
  - 7.5.5.2 Evaluation data shall be used as a basis for modifying health care strategies including but not limited to reassessing client health status, modifying nursing diagnoses, or prescribing changes in nursing interventions.
- 7.5.6 Delegation
  - 7.5.6.1 Definitions
    - “**Accountability**” - The state of being accountable, answerable, or legally liable for actions and decisions, including supervision.
    - “**Delegation**” - Entrusting the performance of selected nursing duties to individuals qualified, competent and legally able to perform such duties while retaining the accountability for such act.
    - “**Supervision**” - The guidance by a registered nurse (RN) for the accomplishment of a function or activity. The guidance consists of the activities included in monitoring as well as establishing the initial direction, delegating, setting expectations, directing activities and courses of action, critical watching, overseeing, evaluating, and changing a course of action.
    - “**Unlicensed Assistive Personnel**” - Individuals not licensed to perform nursing tasks that are employed to assist in the delivery of client care. The term “unlicensed assistive personnel” does not include members of the client’s immediate family, guardians, or friends; these individuals may perform incidental care of the sick in private homes without specific authority from a licensed nurse (as established in 24 **Del.C.** §1921(a)(4) of the Nurse Practice Act).
  - 7.5.6.2 Conditions. The following conditions are relevant to delegation:
    - 7.5.6.2.1 RNs, not LPNs, may delegate.
    - 7.5.6.2.2 The RN must be knowledgeable regarding the unlicensed assistive personnel’s education and training and have opportunity to periodically verify the individual’s ability to perform the specific tasks.
    - 7.5.6.2.3 The RN maintains accountability for determining the appropriateness of all delegated nursing duties and responsibility for the delivery of safe and competent care. The RN is accountable for decisions made and actions taken in the course of that delegation. Unlicensed assistive personnel may not reassign a delegated act.
  - 7.5.6.3 Criteria
    - 7.5.6.3.1 The RN may delegate only tasks that are within the scope of sound professional nursing judgment to delegate. Nursing judgments and actions include decisions made when delegating nursing tasks to others and providing supervision for those activities.
    - 7.5.6.3.2 Determination of appropriate factors include, but are not limited to:

- 7.5.6.3.2.1 stability of the client's condition
- 7.5.6.3.2.2 educational background, skill level, or preparation of the individual
- 7.5.6.3.2.3 nature of the nursing act that meets the following:
  - 7.5.6.3.2.3.1 task is performed frequently in the daily care of a client
  - 7.5.6.3.2.3.2 task is performed according to an established sequence of steps
  - 7.5.6.3.2.3.3 task may be performed with a predictable outcome
  - 7.5.6.3.2.3.4 task does not involve ongoing assessment, interpretation or decision making that cannot be logically separated from the task itself.
- 7.5.6.3.3 Variables in each service setting include, but are not limited to:
  - 7.5.6.3.3.1 complexity and frequency of care needed by a given patient population
  - 7.5.6.3.3.2 proximity of patients to staff
  - 7.5.6.3.3.3 number and qualifications of staff
- 7.5.6.3.4 The RN must be readily available in person or by telecommunication.
- 7.5.6.4 Exclusions
  - 7.5.6.4.1 The following activities require nursing knowledge, judgment, and skill and may not be delegated by the RN to an unlicensed assistive person.
  - 7.5.6.4.2 Physical, psychological, and social assessment which requires professional nursing judgment, intervention, referral, or follow-up;
  - 7.5.6.4.3 Development of nursing diagnoses and/or care goals;
  - 7.5.6.4.4 Formulation of the plan of nursing care and evaluation of the effectiveness of the nursing care provided;
  - 7.5.6.4.5 Specific tasks involved in the implementation of the plan of care which require nursing judgment, skill, or intervention, that include, but are not limited to: performance of sterile invasive procedures involving a wound or anatomical site; nasogastric, newly established gastrostomy and jejunostomy tube feeding; nasogastric, jejunostomy and gastrostomy tube insertion or removal; suprapubic catheter insertion and removal; (phlebotomy is not considered a sterile, invasive procedure);
  - 7.5.6.4.6 Administration of medications, including prescription topical medications; and
  - 7.5.6.4.7 Receiving or transmitting verbal orders.
- 7.6 Standards of Practice for the Licensed Practical Nurse
  - 7.6.1 Standards related to the Licensed Practical Nurse's contributions to the nursing process.
    - 7.6.1.1 At the direction and under the supervision of a recognized licensed authority, the Licensed Practical Nurse shall contribute to the nursing process and document nursing assessments of individuals and groups by:
      - 7.6.1.1.1 Collecting objective and subjective data from observations, examinations, interview and written records in an accurate and timely manner. The data include but are not limited to:
        - 7.6.1.1.1.1 Biophysical and emotional status and observed changes;
        - 7.6.1.1.1.2 Growth and development;
        - 7.6.1.1.1.3 Ethno-cultural, spiritual, socio-economic, and ecological background;
        - 7.6.1.1.1.4 Family health history;
        - 7.6.1.1.1.5 Information collected by other health team members;
        - 7.6.1.1.1.6 Ability to perform activities of daily living;
        - 7.6.1.1.1.7 Consideration of client's health goals;
        - 7.6.1.1.1.8 Client knowledge and perception about health status and potential, or maintaining health status;
        - 7.6.1.1.1.9 Available and accessible human and material resources;
        - 7.6.1.1.1.10 Patterns of coping and interaction.
      - 7.6.1.1.2 Sorting, selecting, reporting, and recording the data.
      - 7.6.1.1.3 Analyzing data.
      - 7.6.1.1.4 Validating, refining and modifying the data by using available resources including interactions with the client, family, significant others, and health team members.
    - 7.6.1.2 Licensed Practical Nurses shall participate in establishing and documenting nursing diagnoses that serve as the basis for the strategy of care.

- 7.6.1.3 Licensed Practical Nurses shall participate in developing strategies of care based on assessment and nursing diagnoses.
  - 7.6.1.3.1 Contributing to setting realistic and measurable goals for implementation.
  - 7.6.1.3.2 Participating in identifying measures to maintain comfort, to support human functions and responses to maintain an environment conducive to well-being, and to provide health teaching and counseling.
  - 7.6.1.3.3 Contributing to setting client priorities.
- 7.6.1.4 Licensed Practical Nurses shall participate in the implementation of the strategy of care by:
  - 7.6.1.4.1 Providing care for clients whose conditions are stabilized or predictable.
  - 7.6.1.4.2 Providing care for clients whose conditions are critical and/or fluctuating, under the directions and supervision of a recognized licensed authority.
  - 7.6.1.4.3 Providing an environment conducive to safety and health.
  - 7.6.1.4.4 Documenting nursing interventions and outcomes.
  - 7.6.1.4.5 Communicating nursing interventions and outcomes to appropriate health team members.
- 7.6.1.5 Licensed Practical Nurses shall contribute to evaluating outcomes through appropriate documentation and communication.

## 7.7 Dispensing

### 7.7.1 Definitions

- 7.7.1.1 **"Dispensing"** means providing medication according to an order of a practitioner duly licensed to prescribe medication. The term shall include both the repackaging and labeling of medication from bulk to individual doses.
- 7.7.1.2 **"Prescription Label"** - a label affixed to every prescription or drug order which contains the following information at a minimum.
  - 7.7.1.2.1 A unique number for that specific drug order.
  - 7.7.1.2.2 The date the drug was dispensed.
  - 7.7.1.2.3 The patient's full name.
  - 7.7.1.2.4 The brand or established name and manufacturer and the strength of the drug to the extent it can be measured.
  - 7.7.1.2.5 The practitioner's directions as found on the prescription order.
  - 7.7.1.2.6 The practitioner's name.
  - 7.7.1.2.7 The initials of the dispensing nurse.
  - 7.7.1.2.8 The name and address of the facility or practitioner from which the drug is dispensed.
  - 7.7.1.2.9 Expiration date.
- 7.7.1.3 **"Standing order"** - An order written by the practitioner which authorizes a designated registered nurse or nurses to dispense prescription drugs to his/her patients(s) according to the standards listed below.

### 7.7.2 Authority to Dispense

- 7.7.2.1 Registered Nurses may assume the responsibility of dispensing as defined in the Nurse Practice Act.
- 7.7.2.2 Licensed Practical Nurses may assume the responsibility of dispensing as authorized by the Nurse Practice Act and defined in these Regulations, subsections 7.7.2.2.1, 7.7.2.2.2, and 7.7.2.2.3.
  - 7.7.2.2.1 Licensed Practical Nurses may provide to a patient pre-packaged medications in accordance with the order of a practitioner duly licensed to prescribe medication where such medications have been pre-packaged by a person with lawful authority to dispense drugs.
  - 7.7.2.2.2 Licensed Practical Nurses, per written order of a physician, dentist, podiatrist, advanced practice nurse, or other practitioner duly licensed to prescribe medication, may add the name of the client to a preprinted label on a pre-packaged medication.
  - 7.7.2.2.3 Licensed Practical Nurses in a licensed methadone clinic may apply a preprinted label to a pre-packaged medication.

### 7.7.3 Standards for Dispensing

- 7.7.3.1 All licensed nurses engaged in dispensing shall adhere to these standards.
  - 7.7.3.1.1 The medication must be prepackaged by a pharmaceutical company or prepared by a registered pharmacist.

- 7.7.3.1.2 The nurse shall be responsible for proper drug storage of the medication prior to dispensing.
- 7.7.3.1.3 The practitioner who originated the prescription or drug order must be on the premises or he/she or their designated coverage shall be available by telephone during the act of dispensing.
- 7.7.3.1.4 Once a drug has been dispensed it shall not be returned for reuse by another or the same patient in an institutional setting.
- 7.7.3.1.5 The nurse may not delegate any part of the dispensing function to any other individual who is not licensed to dispense.
- 7.7.3.1.6 The dispensing nurse must assure compliance to the state generic substitution laws when selecting the product to be dispensed.
- 7.7.3.1.7 The nurse-dispensed prescription may not be refillable; it requires the authority of the prescriber with each dispensing.
- 7.7.3.1.8 A usage review process must be established for the medicines dispensed to assure proper patient usage.
- 7.7.3.1.9 All dispensed drugs must be labeled as defined above and dispensed in proper safety closure containers that meet the standards established by the United States Pharmacopoeia for stability.
- 7.7.3.1.10 Record keeping must include the maintenance of the original written prescription or drug order for at least three years, allow retrospective review of accountability, and provide an audit trail. All dispensing records must be maintained on site, and available for inspection by authorized agents of the Board of Health, Pharmacy, and Nursing.
- 7.7.3.1.11 The dispensing nurse shall assume the responsibility of patient counseling of drug effects, side-effects, desired outcome, precautions, proper storage, unique dosing criteria, drug interactions, and other pertinent data, and record evidence of patient education.
- 7.7.3.1.12 Conformance to paragraphs 6 through 11 are not necessary if the original prescription was dispensed by a pharmacist for that specific patient.

7.8 Intravascular Therapy by Licensed Nurses. Intravascular therapy encompasses several components, some of which require primarily skill proficiency with a minimum of critical judgment. Other aspects of intravascular therapy require skill proficiency and more importantly a high degree of knowledge, critical judgement and decision making to perform the function safely.

#### 7.8.1 Definition of Terms.

- 7.8.1.1 **Intravascular therapy (IV)** - is the broad term including the administration of fluids and medications, blood and blood derivatives into an individual's vascular system.
- 7.8.1.2 **Intravascular therapy maintenance** - Monitoring of the therapy for changes in patient's condition, appropriate flow rate, equipment function, the hanging of additional fluid containers and the implementation of site care.
- 7.8.1.3 **Intravenous and intra-arterial medications** - are drugs administered into an individual's vascular system by any one of the following methods:
  - 7.8.1.3.1 By way of infusion diluted in solution or suspended in fluid and administered over a specified time at a specified rate.
  - 7.8.1.3.2 Through an established intra-vascular needle or catheter (referred to as "IV push").
  - 7.8.1.3.3 By venipuncture carried out for the sole purpose of administering the medication. This method is referred to as direct medication injection (direct IV push).
- 7.8.1.4 **Intravenous fluids** - include solutions, vitamins, nutrient preparations, and commercial blood fractions designed to be administered into an individual's vascular system. Whole blood and blood components, which are administered in the same manner, are considered intravenous fluids in this definition.
- 7.8.1.5 **Subcutaneous Infusion**- Continuous infusion or intermittent injection of medication into the layer of fatty tissue between the skin and muscle using a subcutaneous needle.
- 7.8.1.6 **Supervision** - a registered nurse, licensed physician or dentist is physically present in the unit where the patient is being provided care, or within immediate electronic/telephone contact.
- 7.8.1.7 **Termination of intravascular therapy** - Cessation of the therapy either by withdrawing a needle or catheter from an individual's vascular system or by discontinuing the infusion and maintaining the device as a reservoir.
- 7.8.1.8 **Vascular access** - Utilization of an established device or the introduction of a needle or catheter into an individual's vascular system.
- 7.8.1.9 **Vascular system** - is composed of all peripheral and central veins and arteries.

- 7.8.1.10 **Venipuncture** - Introduction of a needle or catheter into an individual's peripheral vein for the purpose(s) of withdrawing blood or establishing an infusion or administering medications.
- 7.8.2 Conditions of Performing Intravascular Therapy Procedures by Licensed Nurses
  - 7.8.2.1 Intravascular therapy must be authorized by a written order from a state licensed and authorized prescriber.
  - 7.8.2.2 The performance of any procedures of intravascular therapy by a licensed practical nurse will be done under the supervision of a registered nurse, APRN, or person licensed to practice medicine, surgery, or podiatry.
  - 7.8.2.3 Admixed intravascular solutions documented and instituted by one licensed nurse and subsequently interrupted may be re-instituted by another licensed nurse after confirmation with the state licensed and authorized prescriber's order.
  - 7.8.2.4 Admixed intravascular solutions documented and prepared by one licensed nurse may be initiated or continued by another licensed nurse after confirmation with the state licensed and authorized prescriber's order.
  - 7.8.2.5 Intradermal or topical anesthetics may be used by the RN or LPN when initiating vascular access therapy in various situations or settings, provided there is an authorized prescriber's order and organizational policy/procedure to support use of these medications. All RNs and LPNs must have documented educational preparation according to the employing agency's policies and procedures. Documented evidence must include both theoretical instruction including anatomy and physiology, pharmacology, nursing management and education of patients and demonstration of clinical proficiency in performance of the task.
- 7.8.3 Functional Scope of Responsibility for Intravascular Therapy Procedures
  - 7.8.3.1 Registered Nurses bear the responsibility and accountability for their nursing practice under the license granted by the Board of Nursing and are permitted to perform the following:
    - 7.8.3.1.1 Assessment of the patient and the prescribed intravascular therapy before, during and after the therapy is carried out.
    - 7.8.3.1.2 Acceptance and confirmation of intravascular therapy order(s).
    - 7.8.3.1.3 Calculation of medication dosage and infusion rate for intravascular therapy administration.
    - 7.8.3.1.4 Confirmation of medication dosage and infusion rate for intravascular therapy administration.
    - 7.8.3.1.5 Addition of prescribed medications in intravascular solution, labeling and documenting appropriately.
    - 7.8.3.1.6 Start initial solution or add replacement fluids to an existing infusion as prescribed.
    - 7.8.3.1.7 Vascular access for establishing an infusion or administering medications.
    - 7.8.3.1.8 Administration of medications by "IV push".
    - 7.8.3.1.9 Intravascular therapy maintenance.
    - 7.8.3.1.10 Termination of intravascular therapy, including the removal of subclavian and PICC lines.
    - 7.8.3.1.11 Access the vascular system for the purpose of the withdrawal of blood and to monitor the patient's condition before, during, and after the withdrawal of blood.
  - 7.8.3.2 Licensed Practical Nurses bear the responsibility and accountability for their nursing practice under the license granted by the Board of Nursing and are permitted to perform the following for peripheral lines:
    - 7.8.3.2.1 Acceptance and confirmation of intravascular therapy order(s).
    - 7.8.3.2.2 Calculation of medication dosage and infusion rate of intravascular medications prescribed. This does not include titration.
    - 7.8.3.2.3 Confirmation of medication dosage and infusion rate for intravascular therapy administration.
    - 7.8.3.2.4 Addition of medications in intravascular solutions, label and document appropriately.
    - 7.8.3.2.5 Venipuncture with needle device to establish access to the peripheral vascular system.
    - 7.8.3.2.6 Start initial solution or add replacement fluids to an existing infusion as prescribed.
    - 7.8.3.2.7 Intravascular therapy maintenance including the flushing of peripheral lines with Heparin and/or saline solution.
    - 7.8.3.2.8 Termination of peripheral intravascular therapy.
    - 7.8.3.2.9 Performance of venipuncture for the purpose of the withdrawal of blood and to monitor the patient's condition before, during and after the withdrawal of blood.
  - 7.8.3.3 The Licensed Practical Nurse is permitted to perform the following procedures for central lines:
    - 7.8.3.3.1 Acceptance of intravascular therapy order(s).

- 7.8.3.3.2 Calculation of medication dosage and infusion rate of intravascular medications prescribed. This does not include titration.
- 7.8.3.3.3 Confirmation of medication dosage and infusion rate for intravascular therapy administration.
- 7.8.3.3.4 Addition of medications in intravascular solutions, label and document appropriately.
- 7.8.3.3.5 Intravascular therapy maintenance, including the flushing of central lines with Heparin and/or saline solution.
- 7.8.3.3.6 Dressing and tubing changes, including PICC lines.
- 7.8.3.3.7 Addition of replacement fluids to an existing infusion as prescribed.
- 7.8.3.4 The Licensed Practical Nurse is permitted to perform the following procedures for subcutaneous infusions after documented instruction and competency demonstration:
  - 7.8.3.4.1 Accept subcutaneous infusion therapy order(s).
  - 7.8.3.4.2 Insert and remove subcutaneous needle or catheter to initiate/discontinue therapy or rotate sites.
  - 7.8.3.4.3 Confirm medication dosage and infusion rate.
  - 7.8.3.4.4 Calculate and adjust flow rates on subcutaneous infusion including pumps. This does not include titration nor administration of medications via the "push" route.
  - 7.8.3.4.5 Perform dressing and tubing changes.
  - 7.8.3.4.6 Maintain subcutaneous infusion therapy.
  - 7.8.3.4.7 Change the administration set and convert a continuous infusion to an intermittent infusion and vice versa.
  - 7.8.3.4.8 Observe, document, and report on insertion site and signs of complications such as infection, phlebitis, etc.
- 7.8.4 Special Infusion Therapy Procedures by Registered Nurses
  - 7.8.4.1 Chemotherapy - Only intravascular routes are addressed in these rules. Review of the Oncology Nursing Society's current guidelines is recommended before the administration of anti-neoplastic agents.
    - 7.8.4.1.1 Definition of Terms
      - 7.8.4.1.1.1 Cancer Chemotherapy - is the broad term including the administration of anti-neoplastic agents into an individual's vascular system.
      - 7.8.4.1.1.2 Anti-neoplastic agents - are those drugs which are administered with the intent to control neoplastic cell growth.
    - 7.8.4.1.2 The Registered Nurse who administers cancer chemotherapy by the intravascular route must have documented educational preparation according to the employing agency's policies and procedures.
    - 7.8.4.1.3 The Registered Nurse must have documented evidence of knowledge and skill in the following:
      - 7.8.4.1.3.1 Pharmacology of anti-neoplastic agents
      - 7.8.4.1.3.2 Principles of drug handling and preparation
      - 7.8.4.1.3.3 Principles of administration
      - 7.8.4.1.3.4 Vascular access
      - 7.8.4.1.3.5 Side effects of chemotherapy on the nurse, patient, and family
  - 7.8.4.2 Central Venous Access Via Peripheral Veins
    - 7.8.4.2.1 Definition of Terms
      - 7.8.4.2.1.1 Central venous access - is that entry into an individual's vascular system via the insertion of a catheter into a peripheral vein threaded through to the superior vena cava with placement confirmed by x-ray.
    - 7.8.4.2.2 The Registered Nurse who performs central venous access via peripheral veins must have documented educational preparation according to the employing agency's policies and procedures.
    - 7.8.4.2.3 Documented evidence must include, but is not limited to, evidence of both theoretical instruction and clinical proficiency in performance of the task.
      - 7.8.4.2.3.1 Theoretical instruction must include, but is not limited to, anatomy and physiology, pharmacology, nursing management, and education of patients as they relate to central venous access via peripheral veins.

- 7.8.4.2.3.2 A preceptor must supervise the learning experience and must document the Registered Nurse's competency in the performance of the procedure.
- 7.8.4.2.4 Specially trained PICC nurses may determine the location of the distal tip of a peripherally inserted central catheter by initial or repeat chest radiograph studies prior to administration of the prescribed therapy.
- 7.8.4.3 Pain Management via Epidural Catheter
  - 7.8.4.3.1 It is within the scope of practice of a Registered Nurse to instill analgesics (opiates)/low dose anesthetics at analgesic levels into an existing catheter under the following conditions/exceptions:
    - 7.8.4.3.1.1 The epidural catheter is in place.
    - 7.8.4.3.1.2 The position of the epidural catheter was verified as correct by a physician at the time of insertion.
    - 7.8.4.3.1.3 Bolus doses and/or continuous infusions, as pre-mixed by anesthesiologists, C.R.N.A.s, or pharmacists, of epidural analgesics/low dose anesthetics at analgesic levels can be administered by the Registered Nurse only after the initial dose has been administered. Changes in medication and/or dosage of the same medication are not defined as the initial dose.
    - 7.8.4.3.1.4 Only analgesics (opiates)/low dose anesthetics at analgesic levels will be administered via this route for acute and chronic pain management.
    - 7.8.4.3.1.5 The Registered Nurse must complete a course that includes, but is not limited to, a) anatomy, physiology, pharmacology, nursing management, assessment, and education of patients as they relate to epidural administration of opiates/low dose anesthetics at analgesic levels; b) a credentialed preceptor must supervise the learning experience and must document the Registered Nurse's clinical competency in the performance of the procedure.
    - 7.8.4.3.1.6 The Registered Nurse may not insert or remove epidural catheters.
- 7.8.4.4 Vascular Access via the Intraosseous Route
  - 7.8.4.4.1 Definition of Terms
    - 7.8.4.4.1.1 Intraosseous- within the bone marrow.
    - 7.8.4.4.1.2 Intraosseous infusions- a method of obtaining immediate vascular access, especially in children, by percutaneous insertion of an intraosseous needle into the bone marrow cavity of a long bone where substances may be injected or infused and are readily absorbed into the general circulation.
  - 7.8.4.4.2 The Registered Nurse who performs intraosseous access, infusions, or removal must have documented educational preparation according to the employing agency's policies and procedures.
  - 7.8.4.4.3 Documented evidence must include, but is not limited to, evidence of both theoretical instruction and clinical proficiency in performance of the task.
    - 7.8.4.4.3.1 Theoretical instruction must include, but is not limited to, anatomy and physiology, pharmacology, nursing management, and education of patients as they relate to intraosseous access, infusions, or removal.
    - 7.8.4.4.3.2 A preceptor must supervise the learning experience and must document the Registered Nurse's competency in the performance of the procedures.
- 7.8.4.5 The Registered Nurse may perform the following procedures for subcutaneous infusions after documented instruction and competency demonstration:
  - 7.8.4.5.1 Accept subcutaneous infusion therapy order(s).
  - 7.8.4.5.2 Insert and remove subcutaneous needle or catheter to initiate/discontinue therapy or rotate sites.
  - 7.8.4.5.3 Confirm medication dosage and infusion rate.
  - 7.8.4.5.4 Calculate and adjust flow rates on subcutaneous infusion including pumps, including titration and administration of medications via the "push" route.
  - 7.8.4.5.5 Perform dressing and tubing changes.
  - 7.8.4.5.6 Maintain subcutaneous infusion therapy.
  - 7.8.4.5.7 Change the administration set and convert a continuous infusion to an intermittent infusion and vice versa.



7.8.4.5.8 Assess insertion site for signs of complications, document, and perform appropriate interventions as ordered.

#### 7.8.4.6 Pain Management Via Perineural Route

7.8.4.6.1 It is within the role of the RN to manage care for patients receiving analgesia by catheter techniques by the perineural route of administration to alleviate pain. This does not include the epidural route.

7.8.4.6.2 A RN who has received the proper additional education and training may re-inject medication (bolus dose) following establishment of an appropriate therapeutic range and adjust drug infusion rate, intervene with side effects and complications, replace empty drug reservoirs, refill implanted drug reservoirs, trouble shoot infusion devices, change infusion device batteries, tubings, and dressings, discontinue therapy, and remove catheters in compliance with a licensed healthcare provider's orders.

7.8.4.6.3 The RN must:

7.8.4.6.3.1 Demonstrate the acquired knowledge of anatomy, physiology, pharmacology, side effects, and complications related to the analgesia technique and medication(s) being administered.

7.8.4.6.3.2 Assess the patient's total care needs (physiological, emotional) while receiving analgesia

7.8.4.6.3.3 Utilize monitoring modalities, interpret physiological responses, and initiate nursing interventions to ensure optimal patient care.

7.8.4.6.3.4 Anticipate and recognize potential complications of the analgesia technique in relation to the type of catheter, infusion device, and medication(s) being utilized.

7.8.4.6.3.5 Recognize emergency situations and institute nursing interventions in compliance with established institution/healthcare facility policies, procedures, and guidelines and licensed healthcare provider orders.

7.8.4.6.3.6 Demonstrate the cognitive and psychomotor skills necessary for use and removal of the analgesic catheter and infusion device when analgesia is delivered by such a device.

7.8.4.6.3.7 Demonstrate knowledge of the legal ramifications of the management and monitoring of analgesia by catheter techniques, including the RN's responsibility and liability in the event of untoward reactions or life-threatening complications.

7.8.4.6.3.8 Identify patient/family educational needs and limitations and provide the patient/family with patient-focused information/education regarding the specific catheter analgesia/infusion device using appropriate teaching methods.

#### 7.9 Exclusions of Health Care Acts pursuant to 24 **Del.C.** §1921(a)(15)

7.9.1 Health care acts that shall not be delegated by a competent individual who does not reside in a medical facility or a facility regulated pursuant to Chapter 11 of Title 16 include the following:

7.9.1.1 Original intravenous insertion.

7.9.1.2 Original suprapubic catheter insertion or removal.

7.9.1.3 Newly established gastrostomy or jejunostomy tube feeding.

7.9.1.4 Original nasogastric and gastrostomy tube insertion or removal.

7.9.1.5 Any jejunostomy tube insertion or removal.

7.9.1.6 Sterile invasive procedures not normally taught to patients and caregivers by licensed health care professionals.

**1 DE Reg. 1888 (06/01/98)**

**6 DE Reg. 1195 (03/01/03)**

**8 DE Reg. 864 (12/01/04)**

**8 DE Reg. 1683 (6/01/05)**

**15 DE Reg. 685 (11/01/11)**

**15 DE Reg. 1622 (05/01/12)**

**17 DE Reg. 1095 (05/01/14)**

**21 DE Reg. 735 (03/01/18)**

**23 DE Reg. 682 (02/01/20)**

**24 DE Reg. 379 (10/01/20)**

**25 DE Reg 199 (08/01/21)**

## **8.0 Rules and Regulations Governing the Practice of Nursing as an Advanced Practice Registered Nurse in the State of Delaware**

### **8.1 Authority**

These rules and regulations are adopted by the Delaware Board of Nursing under the authority of the Delaware Nurse Practice Act, 24 **Del.C.** §§1902(d), 1906(1), 1906(7).

## 8.2 Purpose

- 8.2.1 The general purpose of these rules and regulations is to assist in protecting and safeguarding the public by regulating the practice of the Advanced Practice Registered Nurse.

## 8.3 Scope

- 8.3.1 These rules and regulations govern the educational and experience requirements and standards of practice for the Advanced Practice Registered Nurse. Prescribing medications and treatments independently is pursuant to the Rules and Regulations promulgated by the Board as defined in 24 **Del.C.** §1906(20). The Advanced Practice Registered Nurse is responsible and accountable for her or his practice. Nothing herein is deemed to limit the scope of practice or prohibit a Registered Nurse from engaging in those activities that constitute the practice of professional nursing and/or professional nursing in a specialty area.

## 8.4 Definitions

**“Advanced Practice Registered Nurse”** as defined in 24 **Del.C.** §1902(c)(1). Such a nurse will be given the title Advanced Practice Registered Nurse by state licensure, and may use the title Advanced Practice Registered Nurse within his/her specific specialty area.

**“Advanced Practice Registered Nurse Role and Population Focus”** Advanced practice roles include the C.R.N.A., C.N.M., C.N.S. and C.N.P. Population foci include: adult/gerontology, family/individual across the lifespan, neonatal, pediatric, psychiatric/mental health, or women’s health/gender related.

**“Board”** The Delaware Board of Nursing

**“Certified Nurse Midwife (C.N.M.)”** A Registered Nurse who is a provider for normal maternity, newborn and well-woman gynecological care. The CNM designation is received after completing an accredited post-basic nursing program in midwifery at schools of medicine, nursing or public health, and passing a certification examination administered by the American Midwifery Certification Board (AMCB) or other nationally recognized, Board of Nursing approved certifying organization.

**“Certified Nurse Practitioner (C.N.P.)”** A Registered Nurse with advanced nursing educational preparation who is a provider of primary healthcare in a variety of settings with a focus on a specific area of practice. The C.N.P. designation is received after graduation from a Master’s program or from an accredited post-basic C.N.P. certificate program of at least one academic year in length in a nurse practitioner specialty such as acute care, adult, family, geriatric, pediatric, or women’s health, etc. The C.N.P. must have national certification in the area of specialization at the advanced level by a certifying agency which meets the established criteria approved by the Delaware Board of Nursing.

**“Certified Registered Nurse Anesthetist (C.R.N.A.)”** A Registered Nurse who has graduated from a nurse anesthesia educational program accredited by the Council on Accreditation of Nurse Anesthesia Educational programs (COA), and who is certified by the National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA) or other nationally recognized, Board of Nursing approved certifying organization.

**“Clinical Nurse Specialist (C.N.S.)”** A Registered Nurse with advanced nursing educational preparation who functions in primary, secondary, and tertiary settings with individuals, families, groups, or communities. The CNS designation is received after graduation from a Master’s degree program in a clinical nurse specialty or post Master’s certificate, such as gerontology, maternal-child, pediatrics, psych/mental health, etc. The CNS must have national certification in the area of specialization at the advanced level. The certifying agency must meet the established criteria approved by the Delaware Board of Nursing.

**“Clinical Nursing Specialty”** a delimited focus of advanced nursing practice. Specialty areas can be identified in terms of population, setting, disease/pathology, type of care or type of problem. Nursing administration does not qualify as a clinical nursing specialty.

**“Consultation”** means the communication and decision-making process among healthcare professionals related to the treatment and care of a patient, including the exchange of clinical observations and assessments; accessing an assessment of appropriate additional resources or expertise; arrangement of appropriate referrals, testing, or studies; and development of an appropriate plan of care that includes decisions regarding the health care provided.

**“Full practice authority,”** as granted to an advanced practice registered nurse, means:

- (1) Practicing within standards established or recognized by the Board of Nursing.
- (2) Being accountable to patients, the nursing profession, and the Board of Nursing for complying with the requirements of this Act and the quality of advanced nursing care rendered.
- (3) Recognizing the limits of knowledge and experience.
- (4) Planning for the management of situations beyond the APRN’s expertise.

(5) Consultation with or referring patients to other health care providers as appropriate.

(6) Practicing to the full scope of practice within the licensed role and population foci, without a collaborative agreement.

**“Guidelines/Protocols”** Suggested pathways to be followed by an Advanced Practice Registered Nurse for managing a particular medical problem. These guidelines/protocols may be developed collaboratively by an Advanced Practice Registered Nurse and a licensed physician, or a podiatrist, or licensed Delaware health care delivery system.

**“National Certification”** That credential earned by a nurse who has met requirements of a Board approved certifying agency.

The agencies so approved include but are not limited to:

American Association of Critical Care Nurses (AACN) Certification Corporation

American Association of Nurse Practitioners Certification Board

American Midwifery Certification Board

American Nurses Credentialing Center

National Board of Certification and Recertification for Nurse Anesthetists

National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties

Pediatric Nursing Certification Board

**“Pharmacology/Pharmacotherapeutics”** Refers to any course, program, or offering that would include, but not be limited to, the identification of individual and classes of drugs, their indications and contraindications, their likelihood of success, their dosages, their side-effects and their interactions. It also encompasses clinical judgment skills and decision making. These skills may be based on thorough interviewing, history taking, physical assessment, test selection and interpretation, patho-physiology, epidemiology, diagnostic reasoning, differentiation of conditions, treatment decisions, case evaluation and non-pharmacologic interventions.

**“Post Basic Program”** A combined didactic and clinical/preceptored program of at least one academic year of full time study in the area of advanced nursing practice with a minimum of 400 clinical/preceptored hours. The program must be one offered and administered by an approved health agency and/or institution of higher learning. Post basic means a program taken after licensure is achieved.

**“Scope of Specialized Practice”** That area of practice in which an Advanced Practice Registered Nurse has a Master’s degree or a post-basic program certificate in a clinical nursing specialty with national certification.

**“Supervision”** Direction given by a licensed physician or Advanced Practice Registered Nurse to an Advanced Practice Registered Nurse practicing pursuant to a temporary permit. The supervising physician or Advanced Practice Registered Nurse must be periodically available at the site where care is provided, or available for immediate guidance.

## 8.5 Grandfathering Period

8.5.1 Any person holding a certificate of state licensure as an Advanced Practice Registered Nurse that is valid on July 31, 2014 shall be eligible for renewal of such licensure under the conditions and standards prescribed herein for renewal of licensure.

## 8.6 Standards for the Advanced Practice Registered Nurse:

8.6.1 APRNs shall comply with the standards for RNs as well as the standards of the national professional nursing associations recognized by the Board of Nursing. Standards for a specific role and population focus supersede standards for RNs where conflict between the standards, if any, exists. APRNs shall practice within standards established by the Board of Nursing and assure patient care is provided according to relevant patient care standards recognized by the Board of Nursing, including standards of national professional nursing associations. Advanced Practice Registered Nurses view clients and their health concerns from an integrated multi-system perspective.

8.6.2 Standards provide the practitioner with a framework within which to operate and with the means to evaluate practice. In meeting the standards of practice of nursing in the advanced role, each practitioner:

8.6.2.1 Performs comprehensive assessments using appropriate physical and psychosocial parameters;

8.6.2.2 Develops comprehensive nursing care plans based on current theories and advanced clinical knowledge and expertise;

8.6.2.3 Initiates and applies clinical treatments based on expert knowledge and technical competency to client populations with problems ranging from health promotion to complex illness and for whom the Advanced Practice Registered Nurse assumes primary care responsibilities. These treatments include, but are not limited to psychotherapy, administration of anesthesia, and vaginal deliveries;

8.6.2.4 Functions under established guidelines/protocols and/or accepted standards of care;

- 8.6.2.5 Uses the results of scientifically sound empirical research as a basis for nursing practice decisions;
  - 8.6.2.6 Uses appropriate teaching/learning strategies to diagnose learning impediments;
  - 8.6.2.7 Evaluates the quality of individual client care in accordance with quality assurance and other standards;
  - 8.6.2.8 Reviews and revises guidelines/protocols, as necessary;
  - 8.6.2.9 Maintains an accurate written account of the progress of clients for whom primary care responsibilities are assumed;
  - 8.6.2.10 Collaborates with members of a multi-disciplinary team toward the accomplishment of mutually established goals;
  - 8.6.2.11 Pursues strategies to enhance access to and use of adequate health care services;
  - 8.6.2.12 Maintains optimal advanced practice based on a continual process of review and evaluation of scientific theory, research findings and current practice;
  - 8.6.2.13 Performs consultative services for clients referred by other members of the multi-disciplinary team.
- 8.6.3 In addition to these standards, each nurse certified in an area of specialization and recognized by the Board to practice as an Advanced Practice Registered Nurse is responsible for practice at the level and scope defined for that specialty certification by the agency which certified the nurse.
- 8.7 Generic Functions of the Advanced Practice Registered Nurse within the Specialized Scope of Practice include but are not limited to:
- 8.7.1 Eliciting detailed health history(s)
  - 8.7.2 Defining nursing problem(s)
  - 8.7.3 Performing physical examination(s)
  - 8.7.4 Collecting and performing laboratory tests
  - 8.7.5 Interpreting laboratory data
  - 8.7.6 Initiating requests for essential laboratory procedures
  - 8.7.7 Initiating requests for essential x-rays
  - 8.7.8 Screening patients to identify abnormal problems
  - 8.7.9 Initiating referrals to appropriate resources and services as necessary
  - 8.7.10 Initiating or modifying treatment and medications within established guidelines
  - 8.7.11 Assessing and reporting changes in the health of individuals, families and communities
  - 8.7.12 Providing health education through teaching and counseling
  - 8.7.13 Planning and/or instituting health care programs in the community with other health care professionals and the public
  - 8.7.14 Delegating tasks appropriately
  - 8.7.15 Prescribing medications and treatments independently pursuant to 24 **Del.C.** §1935.
  - 8.7.16 Inserting and removing epidural catheters by Certified Registered Nurse Anesthetists.
  - 8.7.17 Removing epidural catheters by Nurse Practitioners, Clinical Nurse Specialists and Certified Nurse Midwives after specialized training in collaboration with the facility department of anesthesiology, including population specific advanced life support.
  - 8.7.18 The certified nurse midwife (CNM) or certified nurse practitioner (CNP) may perform medication and manual vacuum aspiration (MVA) abortion to 12 weeks gestation.
    - 8.7.18.1 Prior to performing MVA the CNM or CNP must:
      - 8.7.18.1.1 Demonstrate knowledge and competence including the:
        - 8.7.18.1.1.1 Knowledge of risks, benefits, alternatives, and client selection criteria.
        - 8.7.18.1.1.2 Process for acquisition of required skills.
        - 8.7.18.1.1.3 Identification and management of complications.
        - 8.7.18.1.1.4 Process to evaluate outcomes and maintain competency.
        - 8.7.18.1.1.5 Mechanism for obtaining medical consultation, collaboration, and referral related to these procedures.
        - 8.7.18.1.1.6 Documentation of the process for obtaining the necessary knowledge, skills and ongoing competency which must be maintained by the nurse and employer.
    - 8.7.18.2 Approved educational methods include successful completion of a training or a certificate of completion from:

8.7.18.2.1 The American College of Nurse-Midwives.

8.7.18.2.2 Planned Parenthood.

8.7.18.2.3 The Reproductive Health Access Project.

8.7.18.2.4 On the job training from an experienced provider with privileges to perform MVA.

8.8 Criteria for Approval of Certification Agencies

8.8.1 A national certifying body which meets the following criteria shall be recognized by the Board to satisfy 24 Del.C. §1902(d)(1).

8.8.2 The national certifying body:

8.8.2.1 Is national in the scope of its credentialing.

8.8.2.2 Has no requirement for an applicant to be a member of any organization.

8.8.2.3 Has educational requirements which are consistent with the requirements of the advanced practice registered nurse role and population focus.

8.8.2.4 Has an application process and credential review which includes documentation that the applicant's education is in the advanced nursing practice role and population focus being certified, and that the applicant's clinical practice is in the same role and population focus.

8.8.2.5 Uses an examination as a basis for certification in the advanced nursing practice category which meets the following criteria:

8.8.2.5.1 The examination is based upon job analysis studies conducted using standard methodologies acceptable to the testing community;

8.8.2.5.2 The examination represents the knowledge, skills and abilities essential for the delivery of safe and effective advanced nursing care to the clients;

8.8.2.5.3 The examination content and its distribution are specified in a test plan (blueprint), based on the job analysis study, that is available to examinees;

8.8.2.5.4 Examination items are reviewed for content validity, cultural sensitivity and correct scoring using an established mechanism, both before use and periodically;

8.8.2.5.5 Examinations are evaluated for psychometric performance;

8.8.2.5.6 The passing standard is established using acceptable psychometric methods, and is reevaluated periodically; and

8.8.2.5.7 Examination security is maintained through established procedures

8.8.2.6 Issues certification based upon passing the examination and meeting all other certification requirements.

8.8.2.7 Provides for periodic recertification which includes review of qualifications and continued competency.

8.8.2.8 Has mechanisms in place for communication to Boards of Nursing for timely verification of an individual's certification status, changes in certification status, and changes in the certification program, including qualifications, test plan and scope of practice.

8.8.2.9 Has an evaluation process to provide quality assurance in its certification program.

8.9 Application for Initial Licensure to Practice as an Advanced Practice Registered Nurse

8.9.1 An applicant for initial licensure shall:

8.9.1.1 Have completed an accredited graduate level APRN program in the role and at least one population focus congruent with licensure application.

8.9.1.2 Be currently certified by a national certifying body recognized by the Board in the APRN role and population foci congruent with educational preparation.

8.9.1.3 Have committed no acts or omissions, which are grounds for disciplinary action in another jurisdiction or, if such acts have been committed and would be grounds for disciplinary action as set forth in statute or regulation, the Board has found, after investigation, that sufficient restitution has been made.

8.9.2 An application for licensure to practice as an Advanced Practice Registered Nurse shall be submitted on forms supplied by the Board along with the required non-refundable fee. A completed application provides the following information: Graduation from an APRN graduate or post-graduate program accredited by a nursing accrediting body that is recognized by the U.S. Secretary of Education and/or the Council for Higher Education Accreditation (CHEA), or its successor organization; documentation shall verify date of graduation, credential conferred, number of clinical hours completed, completion of three separate graduate level courses in advanced physiology and pathophysiology, advanced health assessment, advanced pharmacokinetics and pharmacotherapeutics of all broad categories of agents, role and

population focus of the education program, and evidence of meeting the standards of nursing education in this state.

- 8.9.3 In order to be licensed, all APRN applicants must be currently licensed as an RN or hold a privilege to practice as an RN in this state and take and pass the appropriate national certification examination in the role and population focus congruent with educational preparation.
- 8.9.4 A Registered Nurse meeting requirements set forth in these Rules and Regulations may be issued a license as an Advanced Practice Registered Nurse in the role and population focus in which the nurse has been nationally certified at the advanced level or has earned at a minimum a Master's degree in the same role and population.
- 8.9.5 The Board may refuse to issue, revoke, suspend or refuse to renew the license as an Advanced Practice Registered Nurse or otherwise discipline an applicant or a practitioner who fails to meet the requirements for licensure as an Advanced Practice Registered Nurse or as a registered nurse, or who commits any disciplinary offense under the Nurse Practice Act, 24 **Del.C.** Ch. 19, or the Rules and Regulations promulgated pursuant thereto.
- 8.9.6 A Registered Nurse who is duly enrolled as a bona fide student in an approved educational program for Advanced Practice Registered Nurses is not required to obtain an APRN license for the clinical requirements of the program, so long as the student is always under the direct supervision of a qualified instructor.
- 8.9.7 An internationally educated applicant for licensure as an APRN in this state must:
  - 8.9.7.1 Have graduated from a graduate or post-graduate level APRN program equivalent to an APRN educational program in the U.S. acceptable to the Board.
  - 8.9.7.2 Submit an official transcript directly from the international nursing education program and verified through a Board-approved credentials evaluation process.
  - 8.9.7.3 Meet all other licensure criteria required of applicants educated in the U.S.
- 8.10 Temporary Permit for Advanced Practice Registered Nurse Licensure
  - 8.10.1 A temporary permit to practice, pending Board approval for permanent licensure, may be issued provided that:
    - 8.10.1.1 The individual applying has also applied for licensure to practice as a Registered Nurse in Delaware, or
    - 8.10.1.2 The individual applying holds a current license in Delaware, and
    - 8.10.1.3 The individual submits proof of graduation from a nationally accredited or Board approved Master's or certificate advanced practice registered nursing program, and has passed the certification examination, or
    - 8.10.1.4 Application(s) and fee(s) are on file in the Board office.
  - 8.10.2 A temporary permit to practice, under supervision only, may be issued at the discretion of the Executive Director provided that:
    - 8.10.2.1 The individual meets the requirements in 8.10.1.1 or 8.10.1.2, and 8.10.1.4 and;
    - 8.10.2.2 The individual submits proof of graduation from a nationally accredited or Board approved Master's or certificate advanced practice registered nurse program, and;
    - 8.10.2.3 The individual submits proof of admission into the approved certifying agency's examination or is seeking a temporary permit to practice under supervision to accrue the practice hours required to sit for the certifying examination or has accrued the required practice hours and is scheduled to take the first advanced certifying examination upon eligibility or is accruing the practice hours referred to in 8.10.2.4; or,
    - 8.10.2.4 The individual meets 8.10.2.1 and 8.10.2.2 hereinabove and is awaiting review by the certifying agency for eligibility to sit for the certifying examination.
  - 8.10.3 If the certifying examination has been passed, the appropriate form must accompany the application.
  - 8.10.4 A temporary permit may be issued:
    - 8.10.4.1 For up to two years in three month periods.
    - 8.10.4.2 At the discretion of the Executive Director.
  - 8.10.5 A temporary permit will be withdrawn:
    - 8.10.5.1 Upon failure to pass the first certifying examination
      - 8.10.5.1.1 The applicant may petition the Board of Nursing to extend a temporary permit under supervision until results of the next available certification exam are available by furnishing the following information:

- 8.10.5.1.1.1 current employer reference,
  - 8.10.5.1.1.2 supervision available,
  - 8.10.5.1.1.3 job description,
  - 8.10.5.1.1.4 letter outlining any extenuating circumstances,
  - 8.10.5.1.1.5 any other information the Board of Nursing deems necessary.
- 8.10.5.2 For other reasons stipulated under temporary permits elsewhere in these Rules and Regulations.
- 8.10.6 A lapsed temporary permit for designation is equivalent to a lapsed license and the same rules apply.
- 8.10.7 Failure of the certifying examination does not impact on the retention of the basic professional Registered Nurse licensure.
- 8.10.8 Any person practicing or holding oneself out as an Advanced Practice Registered Nurse in any category without a Board authorized license in such category shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of the Law regulating the Practice of Nursing in Delaware, (24 **Del.C.** Ch. 19).
- 8.11 Application for Licensure by Endorsement
- 8.11.1 The Board may, by endorsement, license as an Advanced Practice Registered Nurse an applicant who is duly licensed as an Advanced Practice Registered Nurse or is entitled to perform similar services under a different title under the laws of another state, territory or foreign country if, in the opinion of the Board, the applicant meets all qualifications specified by these regulations for Advanced Practice Registered Nurses in this State.
  - 8.11.2 Applicants must submit documentation of graduation from a graduate or post-graduate level APRN program, as evidenced by an official transcript or other official documentation acceptable by the Board, verifying date of graduation and credential conferred; number of clinical hours completed; completion of three separate graduate level courses in advanced physiology and pathophysiology, advanced health assessment, advanced pharmacokinetics and pharmacotherapeutics of all broad categories of agents; and role and population focus of the education program.
  - 8.11.3 Applicants must meet the practice requirement of 1500 hours in the past five years or no less than 600 hours in the past two years in the role and population focus consistent with certification and educational preparation.
- 8.12 Maintenance of Licensure Status: Renewal; Reinstatement
- 8.12.1 To maintain licensure, the Advanced Practice Registered Nurse must meet the requirements for recertification as established by the certifying agency.
  - 8.12.2 The Advanced Practice Registered Nurse must have practiced a minimum of 1500 hours in the past five years or no less than 600 hours in the past two years in the role and population focus in which licensure has been granted.
    - 8.12.2.1 Faculty members teaching in graduate level clinical courses may count a maximum of 500 didactic course contact hours in the past five years or 200 in the past two years and all hours of direct on-site clinical supervision of students to meet the practice requirement.
    - 8.12.2.2 An Advanced Practice Registered Nurse who does not meet the practice requirement may be issued a temporary permit to practice under the supervision of a person licensed to practice medicine, surgery, or advanced practice nursing, as determined on an individual basis by the Board.
  - 8.12.3 Renewal of licensure shall be on a date consistent with the current Registered Nurse renewal period. A non-refundable renewal fee shall be paid.
    - 8.12.3.1 An applicant for renewal of APRN licensure shall submit a detailed explanation and supporting documentation when the applicant's answers to questions regarding background and current certification/recertification by a national professional certification organization indicate that the applicant does not meet the requirements for renewal of licensure.
  - 8.12.4 To reinstate licensure status as an Advanced Practice Registered Nurse, the requirements for recertification and 1500 hours of practice in the past five years or no less than 600 hours in the past two years in the role and population must be met.
  - 8.12.5 To renew or reinstate an APRN license applicant must submit information related to the nurse's practice and demographics for the purpose of collecting nursing workforce data.
  - 8.12.6 An application for reinstatement of licensure must be filed and the appropriate non-refundable fee paid.
  - 8.12.7 An individual who applies for licensure reinstatement and who has been out of practice for more than five years shall provide evidence of successfully completing a Board-approved APRN refresher program within one year prior to application for reinstatement. If no refresher is available, the applicant must complete 600

hours of supervised clinical practice in the appropriate advanced practice role and population focus by a qualified preceptor within one year prior to reinstatement.

- 8.12.7.1 A preceptor must hold an active license to practice as an APRN or physician that is not encumbered and practices in a comparable practice focus. Evidence of satisfactory completion of the supervised practice must be submitted in writing to the Board of Nursing; likewise, unsatisfactory performance must be reported to the Board in a timely manner.
- 8.12.7.2 APRNs who have been out of practice more than two years but less than five must submit 24 hours of CE with 12 hours in pharmacotherapeutics and 12 hours in the clinical management of patients taken within one year prior to application.
- 8.12.7.3 APRNs who have been out of practice more than five years must submit 45 hours of pharmacotherapeutics CE taken within one year prior to application in addition to the advanced practice refresher program.

#### 8.13 Audit of Licensees

- 8.13.1 The Board shall notify the licensees that they are to be audited for compliance with the requisite practice hours.
  - 8.13.1.1 Upon receipt of such notice, the licensee must submit verification of compliance with APRN practice hours on a form supplied by the Board office that includes employer's name, title, address, telephone number, job title, and dates of employment. Upon receipt of such notice, the licensee must submit the form to the employer and the employer will submit the completed form directly to the Board office.
  - 8.13.1.2 The Board shall notify the licensee of the results of the audit.
  - 8.13.1.3 An unsatisfactory audit shall result in Board action.
  - 8.13.1.4 Failure to notify the Board of a change in mailing address will not absolve the licensee from audit requirements.

#### 8.14 Prescriptive Authority

- 8.14.1 The Board of Nursing grants APRNs prescriptive authority when granting an initial license by direct application or endorsement. APRNs who have not practiced a minimum of 1500 hours in the past five years or 600 hours in the past two years must comply with 24 **Del.C.** §1918.
- 8.14.2 Prescription Order - includes the prescription date, the name of the patient; the name, title, address, area of specialization and business telephone number of the advanced practice registered nurse prescriber; the full name, strength, dosage, route, quantity, amount to be dispensed; directions for use; and number of refills of the drug product or device prescribed; and must bear the name and prescriber ID number and signature of the advanced practice registered nurse prescriber, and when applicable, prescriber's D.E.A. number and signature. There must be lines provided to show whether the prescription must be dispensed as written or substitution is permitted.
- 8.14.3 APRNs are authorized to prescribe, procure, administer, store, dispense, and furnish over the counter, legend, and controlled substances pursuant to applicable state and federal laws and within the APRN's role and population focus.
- 8.14.4 APRNs may prescribe, administer, and dispense legend medications including Schedule II - V controlled substances, (as defined in the Controlled Substance Act and labeled in compliance with 24 **Del.C.** §2522, parenteral medications, medical therapeutics, devices and diagnostics.
  - 8.14.4.1 Controlled Substances registration will be as follows:
  - 8.14.4.2 APRNs must register with the Drug Enforcement Agency and use such DEA number for controlled substance prescriptions.
  - 8.14.4.3 APRNs must register biennially with the Office of Narcotics and Dangerous Drugs in accordance with 16 **Del.C.** §4732(a).
  - 8.14.4.4 APRNs may request and issue professional samples of legend, including schedule II-V controlled substances, and over-the-counter medications that must be labeled in compliance with 24 **Del.C.** §2522.
  - 8.14.4.5 APRNs may give verbal prescription orders.
- 8.14.5 APRNs may order and prescribe non-pharmacological interventions including: medical devices and durable medical equipment, nutrition, blood, and blood products; diagnostic and supportive services including home health care, hospice, and physical and occupational therapy.
- 8.14.6 APRNs may: diagnose, prescribe and institute therapy or referrals of patients within the APRN's role and population foci to health care agencies, health care providers, and community resources; pronounce death



and sign death certificates; seek consultation regarding treatment and care of patients; and be designated as the primary care provider by an insurer or health services corporation.

8.14.7 APRNs licensed in Delaware prior to September 1, 2015 who were not previously granted prescriptive authority must meet the following qualifications in order to be granted prescriptive authority:

8.14.7.1 Hold a current national certification. For APRNs that do not have current national certification, eligibility will be determined on a case by case basis; and

8.14.8 An APRN who has prescriptive authority in another jurisdiction who is applying for prescriptive authority in Delaware must show evidence of having current prescriptive authority in another jurisdiction and have no encumbered APRN designation or designations in any jurisdiction.

8.14.9 Renewal of Prescriptive Authority

8.14.9.1 Maintain current APRN licensure.

8.14.9.2 Prescriptive authority will renew with APRN licensure renewal.

8.15 Unprofessional Conduct

8.15.1 Practice or prescriptive authority may be restricted, suspended or revoked where the advanced practice registered nurse has been found to have committed unprofessional conduct in his or her practice or prescriptive authority or if his or her mental or physical faculties have changed or deteriorated in such a manner as to create an inability to practice or prescribe with reasonable skill or safety to patients.

8.15.2 Unprofessional conduct, for purposes of restriction, suspension or revocation of practice or prescriptive authority shall include but not be limited to:

8.15.2.1 The use or attempted use of any false, fraudulent or forged statement or document or use of any fraudulent, deceitful, dishonest or immoral practice in connection with any acquisition or use of prescriptive authority or practice;

8.15.2.2 Conviction of a felony;

8.15.2.3 Any dishonorable or unethical conduct likely to deceive, defraud or harm the public;

8.15.2.4 Use, distribution, administration or prescription of any drugs or medical devices other than for therapeutic, prophylactic, or diagnostic purposes;

8.15.2.5 Misconduct, incompetence, or gross negligence in connection with practice or prescriptive authority;

8.15.2.6 Unjustified failure upon request to divulge information relevant to authorization or competence to practice or exercise prescriptive authority to the Executive Director of the Board of Nursing or to anyone designated by him or her to request such information.

8.15.2.7 The violation of the Nurse Practice Act or of an Order or Regulation of the Board of Nursing related to practice or prescriptive authority.

8.15.2.8 Restriction, suspension, or revocation of independent practice or prescriptive authority granted by another licensing authority in any state, territory or federal agency.

8.15.2.9 Prescribing, dispensing, administering, or distributing drugs in an unsafe manner or without adequate instructions to patients according to acceptable and prevailing standards.

8.15.2.10 Selling, purchasing, trading, or offering to sell, purchase or trade drug samples.

8.15.2.11 Prescribing or distributing drugs to individuals who are not within that nurse's role and population focus.

8.15.3 Complaints concerning the use or misuse of practice or prescriptive authority received by the Division of Professional Regulation or the Board of Nursing shall be investigated in accordance with the provisions of Title 29, Section 8807 governing investigations by the Division of Professional Regulation.

8.16 Required Criteria for APRN Education Programs:

8.16.1 An APRN program administrator's qualifications must include:

8.16.1.1 A current, active APRN license or privilege to practice that is not encumbered in the state where the program is approved or accredited;

8.16.1.2 A graduate degree in nursing or other healthcare-related fields;

8.16.1.3 Educational or experiential preparation as an APRN with experience in providing nursing education; and

8.16.1.4 Current national APRN certification. Current program administrator without national certification as of October 11, 2020 are grandfathered.

8.16.2 A lead faculty member or assistant program administrator who is educated and nationally certified in the same role and population focus as the education program and licensed as an APRN may coordinate the

- educational component, including curriculum development for the role and population focus in the APRN program;
- 8.16.3 Nursing faculty who teach any APRN nursing course that includes a clinical learning experience shall meet the following qualifications:
    - 8.16.3.1 Possess a current, active APRN license or privilege to practice that is not encumbered in the state where the program is approved or accredited;
    - 8.16.3.2 Hold a minimum of a master's degree in nursing or healthcare related field in the clinical specialty;
    - 8.16.3.3 Have sufficient APRN clinical experience to demonstrate clinical competency; and
    - 8.16.3.4 Possess current knowledge, competence and certification as an APRN in the role and population focus consistent with teaching responsibilities.
  - 8.16.4 Adjunct clinical faculty employed solely to supervise clinical nursing experiences of students shall meet the faculty qualifications consistent with the national nursing accrediting body;
  - 8.16.5 Interdisciplinary faculty who teach non-clinical nursing courses shall have advanced preparation appropriate to these areas of content;
  - 8.16.6 Clinical preceptors shall have demonstrated competencies related to the area of assigned clinical teaching responsibilities and will serve as a role model and educator to the student. Clinical preceptors may be used to enhance faculty-directed clinical learning experiences, but not to replace them. Faculty are not expected to be in the clinical setting with precepted students;
  - 8.16.7 Clinical preceptors will be approved by faculty and meet the following requirements:
    - 8.16.7.1 Hold an active license that is not encumbered as an APRN, or a physician assistant, pharmacist, or physician, and practices in a comparable practice focus; and
    - 8.16.7.2 Function as a supervisor and teacher and evaluate the individual's performance in the clinical setting. Faculty retain responsibility for evaluating clinical performance and the quality of clinical experiences.
  - 8.16.8 Preceptors who supervise students in the clinical setting must be oriented to the curriculum requirements, practice course objectives, and expectations regarding student supervision and evaluation;
  - 8.16.9 The curriculum of the APRN nursing education program must prepare the graduate to practice in one of the four identified APRN roles, i.e., CRNA, CNM, CNS, and CNP, and at least one of the six population foci, i.e., family/individual across the lifespan, adult-gerontology, neonatal, pediatrics, women's health/gender-related or psychiatric/mental health. The curriculum shall include:
    - 8.16.9.1 Three separate graduate-level courses (the APRN core) in: advanced physiology and pathophysiology, including general principles that apply across the lifespan; advanced health assessment, which includes assessment of all human systems, advanced assessment techniques, concepts and approaches; and advanced pharmacology, which includes pharmacodynamics, pharmacokinetics and pharmacotherapeutics of all broad categories of agents;
    - 8.16.9.2 Diagnosis and management of diseases across practice settings including diseases representative of all systems;
    - 8.16.9.3 Preparation that provides a basic understanding of the principles for decision making in the identified role;
    - 8.16.9.4 Preparation in the core competencies for the identified APRN role; and
    - 8.16.9.5 Role preparation in one of the six population foci of practice.
  - 8.16.10 Additional required components of graduate or post-graduate education programs preparing APRNs shall ensure that all enrolled students shall have an active RN license or privilege to practice prior to and throughout enrollment in APRN clinical courses;
  - 8.16.11 Graduates of an APRN education program must be licensed for each role and population focus;
  - 8.16.12 Education programs offered by an accredited college or university that offers a graduate degree with a concentration in the advanced nursing practice role and at least one population focus or post-masters certificate programs offered by an accredited college or university shall include the following components:
    - 8.16.12.1 Clinical supervision congruent with current national professional organizations and nursing accrediting body standards applicable to the APRN role and population focus;
    - 8.16.12.2 Curriculum that is congruent with national standards for graduate level and advanced practice nursing education, is consistent with nationally recognized APRN roles and population foci, and includes, but is not limited to graduate APRN program core courses; and an advanced practice nursing core, including legal, ethical and professional responsibilities of the APRN;
    - 8.16.12.3 Curriculum consistent with competencies of the specific areas of practice;

- 8.16.12.4 APRN programs preparing for two population foci or combined nurse practitioner/clinical nurse specialist shall include content and clinical experience in both functional roles and population foci;
- 8.16.12.5 Each instructional track/major shall have a minimum of 500 supervised clinical hours or the equivalent. The supervised experience is directly related to the role and population focus, including pharmacotherapeutic management of patients; and
- 8.16.12.6 There shall be provisions for the recognition of prior learning and advanced placements in the curriculum for individuals who hold a master's in nursing and are seeking preparation in a different role and population focus. Post-masters nursing students shall complete the requirements of the master's APRN program through a formal graduate-level certificate in the desired role and population focus. Post-masters students must meet the same APRN outcome competencies as the master-level students.

**4 DE Reg. 296 (08/01/00)**

**5 DE Reg. 1606 (02/01/02)**

**8 DE Reg. 1683 (06/01/05)**

**17 DE Reg. 1095 (05/01/14)**

**17 DE Reg. 1193 (06/01/14)**

**18 DE Reg. 705 (03/01/15)**

**20 DE Reg. 301 (10/01/16)**

**21 DE Reg. 735 (03/01/18)**

**23 DE Reg. 130 (08/01/19)**

**23 DE Reg. 682 (02/01/20)**

**24 DE Reg. 379 (10/01/20)**

**25 DE Reg. 199 (08/01/21)**

**25 DE Reg. 786 (02/01/22)**

## **9.0 Rules and Regulations Pertaining to Mandatory Continuing Education**

### **9.1 Definitions**

9.1.1 The following words and terms, when used in this regulation, should have the following meaning unless the context clearly indicates otherwise.

**"Approved Method"** means a planned educational experience, as described in 9.3.

**"Approved Provider"** means an entity that is one of the following:

A nationally accredited provider of nursing related continuing education; or

An organization or agency that is approved as a provider or has programs that are approved by a nationally accredited approver of nursing related continuing education; or

A Board of Nursing approved school of nursing; or

A staff development department within a licensed or State health care agency; or an accredited educational institution; or

An entity approved by the Delaware Board of Nursing, pursuant to 9.4 and 9.5, if not meeting any other criteria.

An organization approved as a provider by a Board of Nursing of another U.S. jurisdiction or territory and which is a member of the National Council of State Boards of Nursing

**"Audit"** means

The verification of completion of continuing education requirements for a minimum of 1% of the total number of licenses issued during a specified time period. (Refer to 9.6) or

The verification of adherence to continuing education approved provider requirements during a specified time period. Providers may be audited as the Board determines. (Refer to 9.7)

**"Biennium"** means the two year period of licensure beginning in an odd numbered year and ending in the next odd numbered year for the Registered Nurse and the two year period of licensure beginning in an even-numbered year and ending in the next even numbered year for the Licensed Practical Nurse.

**"Contact Hour"** means one contact hour equals a minimum of 60 minutes. One half contact hour equals a minimum of 30 minutes.

**"Continuing Education"** means those professional experiences designed to enrich the nurse's contribution to health care and for the purpose of protecting the public health, safety, and welfare.

**"Orientation"** means the means by which nurses are introduced to the philosophy, goals, policies, procedures, role expectations, physical facilities and special services in a specific work setting. Orientation programs do not meet the continuing education requirements of these rules.

## 9.2 Continuing Education Licensure Renewal Requirements

### 9.2.1 Board Authority

9.2.1.1 The Board derives its authority under 24 **Del.C.** §1906(19), to create continuing education requirements as a prerequisite to obtaining a current license and to establish an audit system to assure compliance. This requirement is in addition to the practice requirement as stated in 6.6.

9.2.1.1.1 During each biennium, each Registered Nurse must earn 30 contact hours and each Licensed Practical Nurse must earn 24 hours, to be credited to that biennium. At least 3 of these contact hours must be in the area of substance abuse. All contact hours must be earned through an approved method or by approved provider.

9.2.1.1.1.1 Units of measurement for continuing education shall be in increments of no less than 0.5 contact hours and be as follows:

9.2.1.1.1.1.1 60 Minutes = 1 Contact Hour

9.2.1.1.1.1.2 30 Minutes = .5 Contact Hour

9.2.1.1.1.1.3 1 Academic Semester Hour (Credit) = 5 Contact Hours

9.2.1.1.1.1.4 One C.M.E. = 1.0 Contact Hour = 60 minutes

9.2.1.1.1.1.5 Certification/recertification (excluding preacquired skills and knowledge) = 20 Contact Hours (only during the biennium in which awarded)

### 9.2.2 Requirements

#### 9.2.2.1 Renewal

9.2.2.1.1 To obtain a Registered Nurse or Licensed Practical Nurse license for the next biennium period, the licensee shall submit an attestation indicating the completion of all continuing education requirements for that biennium.

#### 9.2.2.2 Reinstatement

9.2.2.2.2 To obtain a Registered Nurse or Licensed Practical Nurse license through reinstatement, the applicant shall submit, along with the reinstatement application and fee, a completed report on a form provided by the Board office, listing and attesting to the completion of all continuing education requirements for the two years immediately preceding application.

#### 9.2.2.3 Reinstatement/Endorsement

9.2.2.3.1 A Registered Nurse who has endorsed into Delaware during a biennium or whose license was reactivated or reinstated during a biennium must earn 15 contact hours if more than a full calendar year remains in the biennium to obtain a Registered Nurse license for the next biennium period. A Licensed Practical Nurse must earn 12 contact hours if more than a full calendar year remains in the biennium to obtain a Licensed Practical Nurse license for the next biennium period. At least 3 of these contact hours must be in the area of substance abuse.

9.2.3 The required hours shall be completed in the period for which the license was issued. Contact hours from a previous licensure period will not count nor may credits be accumulated for use in a future licensing period.

9.2.4 To be approved for continuing education credit, offerings shall meet the qualifications of appropriate subject matter as specified in these Rules and Regulations.

9.2.5 The licensee shall retain all original certificates or transcripts to verify completion of each continuing education offering and award of contact hours.

### 9.2.6 Exceptions

9.2.6.1 Those persons licensed by examination within a biennial renewal period are exempt from continuing education requirements for that biennium.

9.2.6.2 A licensee who has had a physical or mental illness during the license period can apply to the Board of Nursing for a waiver. A waiver would provide for an extension of time or exemption from some or all of the continuing education requirements for one renewal period. Should the illness extend beyond one renewal period, a new request must be submitted.

9.2.6.3 A request for a waiver will be reviewed and acted upon within 90 days of receipt.

## 9.3 Approved Methods to Earn Contact Hours

### 9.3.1 Academic Studies

- 9.3.1.1 A course offered by an accredited school, university or college for which college credit has been awarded and/or for which class attendance is necessary. This may include successful completion of challenge examinations. The course must be related to nursing.
- 9.3.2 Authoring an Article, Book Chapter, or Independent Study
  - 9.3.2.1 The article, book chapter, or independent study (See 9.3.6) must be related to nursing. Proof of acceptance from the editor or the published work will document achievement of this type of continuing education. A maximum of five contact hours of continuing education may be earned per biennium by this method. Letters to the editor or opinion statements will not be recognized.
- 9.3.3 Certification/Recertification
  - 9.3.3.1 A process by which a nongovernmental agency or association certifies that an individual licensed to practice as an Advanced Practice Nurse, a Registered Nurse, or a Licensed Practical Nurse has met certain predetermined standards specified for specialty practice. National certification or recertification equals 20 contact hours awarded during the biennium. A certification/recertification document indicating the date of recognition must be available. When recertification requirements include more than 20 contact hours, the additional contact hours can be applied toward the total of 30 contact hours for R.N. or 24 contact hours for L.P.N. licensure.
- 9.3.4 Conference
  - 9.3.4.1 A meeting that brings together participants for one or more days to discuss the latest developments and activities from individuals with special expertise in the subject matter of the conference.
- 9.3.5 Extension Studies
  - 9.3.5.1 A course given through an accredited school, college or university for which academic credit may or may not be awarded and for which class attendance is not necessary.
- 9.3.6 Independent Study
  - 9.3.6.1 An educational activity designed for completion by learners, independently, at the learner's own pace and at a time of the learner's choice.
    - 9.3.6.1.1 Examples: Articles in journals designated as continuing education articles, computer-based programs, on-line continuing education courses for which there is a test of knowledge and a certificate awarded upon completion.
- 9.3.7 Inservice Education
  - 9.3.7.1 Activities intended to help nurses acquire, maintain, and/or increase the level of competence in fulfilling his or her assigned responsibilities, specific to the expectations of the employer. Planned inservices must be a minimum of 30 minutes in duration. NOTE: Mandatory education, such as CPR, infection control, fire, safety, patient privacy and confidentiality, and facility specific policies and practices, is not recognized as continuing education.
- 9.3.8 Presentation
  - 9.3.8.1 Educational presentations made to other health professionals that are not required by an individual's job description. The presenter, if subject of an audit, must submit program brochures, course syllabi or letter from the provider identifying the participation of the presenter. Contact hours shall be equal to two hours for every one hour of presentation time, as well as the actual presentation time. A presentation must be a minimum of 30 minutes in length. A maximum of six contact hours of continuing education may be earned per biennium by this method.
- 9.3.9 Research Project
  - 9.3.9.1 The research project must have been done during the biennium. The licensee must submit an abstract as evidence of being one of the recognized researchers. A maximum of five contact hours of continuing education may be earned per biennium by this method.
- 9.3.10 Symposium or Seminar
  - 9.3.10.1 A meeting of groups of participants to explore, in depth, a pre-selected, thoroughly researched topic. The emphasis is on discussion and a free exchange of ideas and experiences.
- 9.3.11 Workshop
  - 9.3.11.1 A meeting that offers opportunities for persons with common interest or problems to meet with specialists to consider new knowledge and practices and to experience working on specific relevant tasks.
- 9.3.12' Any method not on this approved list will require that a written petition justifying the request be submitted to the Board of Nursing.
- 9.4 Continuing Education - Provider

#### 9.4.1 Board Authority

- 9.4.1.1 The Board derives its authority under 24 **Del.C.** Ch. 19, to create requirements for becoming an approved provider and maintaining that status. The Board also has the authority to develop an auditing mechanism to verify compliance with criteria for approved providers.

#### 9.4.2 Criteria for approved providers

- 9.4.2.1 The approved providers shall produce evidence of their capability to adhere to criteria indicative of quality continuing education for nurses. Each provider approved under 9.1, will be assigned a provider number by the Board and shall provide an annual statement of compliance with these criteria.

#### 9.4.3 Subject matter criteria. The provider will ensure that:

- 9.4.3.1 The subject matter is specifically designed to meet the objectives, the stated level and learning needs of the participants.
- 9.4.3.2 The content is planned, logically sequenced and reflects input from experts in the subject matter.
- 9.4.3.3 The subject matter reflects the professional educational needs of the learner in order to meet the health care needs of the consumer.

#### 9.4.4 Criteria related to the operation of an approved continuing education providership. The provider shall:

- 9.4.4.1 Have a consistent, identifiable authority who has overall responsibility for the operation of the providership and execution of its offerings.
- 9.4.4.2 Have an organizational structure and training objectives.
- 9.4.4.3 Develop course descriptions, objectives, and learning outcomes.
- 9.4.4.4 Assign contact hours according to a uniform measure of credit and not award contact hours for less than 30 minutes.
- 9.4.4.5 Establish dates and times for programs.
- 9.4.4.6 Plan and structure programs with teaching and learning methodologies that include a statement of purpose and measurable educational objectives.
- 9.4.4.7 Use faculty who have academic preparation and/or experience in the subject matter.
- 9.4.4.8 Use evaluation processes or tools that provide participants an opportunity to evaluate in writing the learning experience, the instructional methods, facilities, and resources.
- 9.4.4.9 Award the contact hours and be responsible for assurance that all criteria in this chapter are met, when co-providing.
- 9.4.4.10 Notify the Board within 30 days of changes in the administrative authority, the address of the provider, and its ability to meet the criteria.

#### 9.4.5 Criteria related to record maintenance and continuing education programs. The provider shall:

- 9.4.5.1 Maintain records on persons awarded contact hours for a minimum of six years from their date of program completion. The records shall include the name of licensee, contact hours awarded, contact information and/or affiliation, title, and dates of offerings.
- 9.4.5.2 Provide for secure storage and retrieval of individual attendance and information regarding each offering.
- 9.4.5.3 Furnish each participant with an individual record of completion that displays the following on the front of the certificate: participant's name, provider name and number, contact hours awarded, starting and ending dates of the offering, subject matter and a reminder to the participant to retain the certificate for the period of licensure.

#### 9.5 Board Approval Process for Providers from 9.1.

- 9.5.1 An application will be sent to a potential provider upon request. Upon submission of a non-refundable fee, the required materials and a determination of the Delaware Board of Nursing that the materials fulfill the criteria for providers as specified in these Rules and Regulations, initial approval will be granted for up to three years.

#### 9.5.2 The following materials and information must accompany an application:

- 9.5.2.1 A description of the administrative authority of the potential provider;
- 9.5.2.2 The job description of the person who is administratively responsible for provider activities;
- 9.5.2.3 The continuing education philosophy purpose and goals;
- 9.5.2.4 Organizational charts defining lines of authority and communication in relation to continuing education;
- 9.5.2.5 Plan for faculty selection;
- 9.5.2.6 Evidence of nursing participation in program planning and/or administration;

- 9.5.2.7 A record system and a procedure to ensure confidentiality and safe storage;
- 9.5.2.8 The criteria used to plan and implement continuing education activities;
- 9.5.2.9 The criteria used to verify attendance;
- 9.5.2.10 A procedure that ensures the participant who successfully completes an educational activity will receive a document displaying an attendance record, number of contact hours awarded, provider name and number, title of presentation, and the date and location for each offering;
- 9.5.2.11 Registration procedure(s);
- 9.5.2.12 A plan for evaluation, including:
  - 9.5.2.12.1 A procedure for participant evaluation that includes assessment of the instruction, resources and facilities, and
  - 9.5.2.12.2 A system for the follow up of suggestions for improvement;
- 9.5.2.13 Documents from two typical sample course offerings including:
  - 9.5.2.13.1 A narrative of the planning of the offerings including evidence of nursing participation;
  - 9.5.2.13.2 A sample brochure or other form of advertising;
  - 9.5.2.13.3 Course content, i.e., topical course outline, objectives;
  - 9.5.2.13.4 Teaching-learning methodologies and supportive materials;
  - 9.5.2.13.5 Bibliography; and
  - 9.5.2.13.6 A sample participant evaluation form.
- 9.5.3 The Executive Director will review the completed application upon receipt.
  - 9.5.3.1 The review is based on the criteria as specified in these Rules and Regulations.
  - 9.5.3.2 If the Executive Director finds the application incomplete, the applicant will be notified and have two opportunities to submit revised applications.
  - 9.5.3.3 If the application does not meet established criteria within three reviews, the Executive Director may recommend that the Board deny it.
  - 9.5.3.4 When the application meets all requirements as set forth for providers in these Rules and Regulations, the Executive Director shall recommend approval to the Board.
  - 9.5.3.5 The Board may approve for up to three years, or elect not to approve.
  - 9.5.3.6 The provider will be notified of the Board of Nursing's decision in writing within two weeks.
  - 9.5.3.7 A provider number will be assigned at the time of approval and issued within two weeks. This number must be used in all correspondence with the Board.
  - 9.5.3.8 Provider status must be renewed every three years by submitting a non-refundable fee and the required documentation demonstrating compliance with the established criteria as stated in this section.
  - 9.5.3.9 An application that has been denied provider status by the Board may be re-submitted no earlier than one year after the denial date.
- 9.5.4 Complaints against providers.
  - 9.5.4.1 Provider approval may be rescinded at any time during the approved period for noncompliance with approved provider requirements or for complaints that the Board determines indicate the program does not meet criteria.
  - 9.5.4.2 Providers may appeal a decision by requesting a hearing before the Board.
- 9.6 Audit of Licensees
  - 9.6.1 The Board will randomly and on an individual basis select licensees for audit within six (6) months following the license renewal deadline. The Board shall notify the licensees within four (4) weeks of being selected that their records are to be audited for compliance with the continuing education requirements.
    - 9.6.1.1 Upon receipt of such notice, the licensee must submit verification of compliance for the period of licensure being audited. Verification materials which may be requested include proof of attendance, academic transcripts, certificates showing number of contact hours awarded, and documentation of compliance with exceptions.
    - 9.6.1.2 The licensee must submit documentation within three weeks of receipt of notice.
    - 9.6.1.3 The Board shall notify the licensee of the results of an unsatisfactory audit immediately following the Board meeting at which the audits are reviewed.
    - 9.6.1.4 An unsatisfactory audit shall result in Board action.
    - 9.6.1.5 Failure to notify the Board of a change in mailing address will not absolve the licensee from audit requirements.

## 9.7 Audit of Providers

9.7.1 The Board may select approved providers for audit. Upon selection, the Board shall:

- 9.7.1.1 Notify the approved providers that their records are to be audited for compliance with continuing education requirements;
- 9.7.1.2 Be provided with records that document compliance with the Rules and Conduct a site visit as necessary.

## 9.8 Disciplinary Proceedings; Appeal

9.8.1 Failure to comply with continuing education requirements will result in action under Section 1922 of the Nurse Practice Act.

**1 DE Reg. 1893 (06/01/98)**

**9 DE Reg. 815 (11/01/05)**

**15 DE Reg. 685 (11/01/11)**

**17 DE Reg. 1095 (05/01/14)**

**17 DE Reg. 1193 (06/01/14)**

**18 DE Reg. 705 (03/01/15)**

**19 DE Reg. 432 (11/01/15)**

**21 DE Reg. 735 (03/01/18)**

**24 DE Reg. 379 (10/01/20)**

## 10.0 Disciplinary Proceedings

### 10.1 Unprofessional Conduct Defined

10.1.1 Nurses whose behavior fails to conform to legal and accepted standards of the nursing profession and who thus may adversely affect the health and welfare of the public may be found guilty of unprofessional conduct.

10.1.2 Unprofessional conduct shall include but is not limited to the following:

- 10.1.2.1 Performing acts beyond the authorized scope of the level of nursing practice for which the individual is licensed.
- 10.1.2.2 Assuming duties and responsibilities within the practice of nursing without adequate preparation, or without maintenance of competency.
- 10.1.2.3 Performing new nursing techniques or procedures without education and practice.
- 10.1.2.4 Inaccurately recording, falsifying or altering a patient or agency record related to patient care, employment, or licensure.
- 10.1.2.5 Committing or threatening violence, verbal or physical abuse of patients or co-workers or the public.
- 10.1.2.6 Violating professional boundaries of the nurse-patient relationship including but not limited to physical, sexual, emotional or financial exploitation of the patient or patient's significant others.
- 10.1.2.7 Engaging in sexual conduct with a patient, touching a patient in a sexual manner, requesting or offering sexual favors, or language or behavior suggestive of the same.
- 10.1.2.8 Assigning unlicensed persons to perform the practice of licensed nurses.
- 10.1.2.9 Delegating nursing practice to unqualified persons.
- 10.1.2.10 Failing to supervise persons to whom nursing practice has been delegated.
- 10.1.2.11 Leaving a patient assignment except in documented emergency situations.
- 10.1.2.12 Failing to safeguard a patient's dignity and right to privacy in providing services.
- 10.1.2.13 Violating the confidentiality of information concerning a patient.
- 10.1.2.14 Failing to take appropriate action to safeguard a patient from incompetent, unethical or illegal health care practice.
- 10.1.2.15 Practicing nursing when unfit to perform procedures and make decisions in accordance with the license held because of physical or mental impairment or dependence on alcohol or drugs.
- 10.1.2.16 Diverting or misappropriating monies, drugs, supplies or property of a patient agency or governmental program.
- 10.1.2.17 Diverting, possessing, obtaining, supplying or administering illegal drugs or prescription drugs to any person, including self, except, in the case of prescription drugs, as directed by a person authorized by law to prescribe drugs.
- 10.1.2.18 Practicing professional or practical nursing with an expired license.
- 10.1.2.19 Practicing as an Advanced Practice Registered Nurse with an expired license.



- 10.1.2.20 Practicing advanced practice, professional or practical nursing in this state without a current Delaware license or permit as defined in Section 14.0 Nursing Licensure Compact Rules and Regulations.
  - 10.1.2.21 Allowing another person to use the licensee's nursing license or temporary permit.
  - 10.1.2.22 Aiding, abetting or assisting an individual to violate or circumvent any law or duly promulgated rule and regulation intended to guide the conduct of a nurse or other health care provider.
  - 10.1.2.23 Committing fraud, misrepresentation or deceit in taking NCLEX-RN or PN, or in obtaining a license, temporary permit or advanced practice license.
  - 10.1.2.24 Disclosing the contents of the licensing examination or soliciting, accepting or compiling information regarding the examination before, during or after its administration.
  - 10.1.2.25 Failing to report unprofessional conduct by another licensee.
  - 10.1.2.26 Practicing or holding oneself out as an Advanced Practice Registered Nurse without a current license.
  - 10.1.2.27 Failing to comply with the requirements for mandatory continuing education, unless exempt.
  - 10.1.2.28 Failing to take appropriate action or to follow policies and procedures in the practice situation designed to safeguard the patient.
  - 10.1.2.29 Failing to comply with the terms and conditions set out in a disciplinary action of the Board.
  - 10.1.2.30 Failing to practice without discrimination as to age, race, religion, sex, sexual orientation, national origin, gender identity or expression, or disability.
- 10.2 Reissuance of License Following Disciplinary Action. Upon application made by the licensee, a suspended or probated license may be reissued or reinstated in accordance with conditions that the Board may apply, after the imposed period of discipline has concluded and after evidence is presented to satisfy the Board that the condition that lead to the disciplinary action has been corrected.

- 1 DE Reg. 1898 (06/01/98)**
- 15 DE Reg. 685 (11/01/11)**
- 15 DE Reg. 1622 (05/01/12)**
- 17 DE Reg. 86 (07/01/13)**
- 18 DE Reg. 705 (03/01/15)**
- 21 DE Reg. 735 (03/01/18)**
- 24 DE Reg. 886 (03/01/21)**
- 25 DE Reg. 199 (08/01/21)**

## **11.0 Duty to Report**

- 11.1 Duty to Report by Licensed Nurses and other agencies
    - 11.1.1 A licensed nurse shall report, on a complaint form, names of subject individuals to the Board of Nursing if the nurse has reasonable cause to suspect that a nurse or an applicant has violated any of the grounds for discipline found in this section within thirty days of becoming aware of such information.
    - 11.1.2 Failure to report as required by rule 10.5.1 is a disciplinable offense pursuant to 24 **Del.C.** §1922(a)(11).
- 21 DE Reg. 735 (03/01/18)**

## **12.0 Advisory Committees**

- 12.1 Appointment of Committees
  - 12.1.1 The Board may appoint advisory committees to assist in the performance of its duties.
  - 12.1.2 Advisory committees will be chaired by a Board member.
- 12.2 Membership of Committees
  - 12.2.1 The Executive Director of the Board of Nursing shall make a call for applications for potential members to fill vacancies on the Board's advisory committees. The potential members shall submit their resumes to the Executive Director. The resumes shall be reviewed by the Executive Director and each committee chair of the Board of Nursing. They shall then make recommendations with rationales to the Board of Nursing for approval and appointment of the members to advisory committees.
  - 12.2.2 Members may include Registered Nurses, Licensed Practical Nurses, Advanced Practice Registered Nurses and lay persons.
  - 12.2.3 Members shall serve two-year terms.

- 12.2.4 The Executive Director shall verify members' continued interest in serving on the Board's advisory committees prior to expiration of their two-year term. The Executive Director shall submit the names of the committee members who are interested in serving another term to the Board of Nursing for reappointment.
- 12.2.5 Members who miss three consecutive meetings shall be reported to the Board, which may appoint a replacement member.

**5 DE Reg. 1606 (02/01/02)**

**7 DE Reg. 158 (08/01/03)**

**21 DE Reg. 735 (03/01/18)**

### **13.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals**

- 13.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.
- 13.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.
- 13.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).
- 13.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.
- 13.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection 13.8 of this section.
- 13.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
- 13.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
- 13.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.
- 13.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
- 13.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its

services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

- 13.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/ her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.
- 13.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 13.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- 13.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
- 13.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 13.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- 13.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.
- 13.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

#### 14.0 Nurse Licensure Compact Rules and Regulations

The Board hereby incorporates by reference the enhanced Nurse Licensure Compact rules and regulations as adopted on January 1, 2019 and found at [www.ncsbn.org/nlcrules.htm](http://www.ncsbn.org/nlcrules.htm).

- 4 DE Reg. 677 (10/01/00)
- 15 DE Reg. 685 (11/01/11)
- 17 DE Reg. 83 (07/01/13)
- 22 DE Reg. 686 (02/01/19)
- 22 DE Reg. 785 (03/01/19)

#### 15.0 Offenses substantially related to the practice of Nursing.

The Board finds that for purposes of licensing, renewal, reinstatement and discipline, the conviction of any of the following crimes, or of the attempt to commit or a conspiracy to commit or conceal the following crimes or substantially similar crimes in another state or jurisdiction, is deemed to be substantially related to the practice of Nursing in the State of Delaware without regard to the place of conviction:

- 15.1 For the purposes of this section the following definitions shall apply:
  - “**Conviction**” means a verdict of guilty by whether entered by a judge or jury, or a plea of guilty or a plea of nolo contendere or other similar plea such as a “Robinson” or “Alford” plea unless the individual has been discharged under §4218 of Title 11 of the **Delaware Code** (probation before judgment) or under §1024 of Title 10 (domestic violence diversion program) or by §4764 of Title 16 (first offenders controlled substances diversion program).
  - “**Jurisdiction**” means substantially similar crimes in another state or jurisdiction includes all crimes prohibited by or punishable under Title 18 of the United States Code Annotated (U.S.C.A.) such as, but not limited to, Federal Health Care offenses.
- 15.2 Any crime which involves the use of physical force or violence toward or upon the person of another and shall include by way of example and not of limitation the following crimes set forth in Title 11 of the **Delaware Code Annotated**:
  - Inchoate Crimes

- 15.2.1 §501Criminal solicitation in the third degree if the underlying crime is a crime substantially related to the practice of nursing;
- 15.2.2 §502Criminal solicitation in the second degree if the underlying crime is a crime substantially related to the practice of nursing;
- 15.2.3 §503Criminal solicitation in the first degree if the underlying crime is a crime substantially related to the practice of nursing;
- 15.2.4 §511Conspiracy in the third degree if the underlying crime is a crime substantially related to the practice of nursing;
- 15.2.5 §512Conspiracy in the second degree if the underlying crime is a crime substantially related to the practice of nursing;
- 15.2.6 §513Conspiracy in the first degree if the underlying crime is a crime substantially related to the practice of nursing.

#### Assaults and Related Offenses

- 15.2.7 §601Offensive touching; Class A Misdemeanor
- 15.2.8 §602Aggravated Menacing;
- 15.2.9 §603Reckless endangering in the second degree;
- 15.2.10 §604Reckless endangering in the first degree;
- 15.2.11 §605Abuse of a pregnant female in the second degree;
- 15.2.12 §606Abuse of a pregnant female in the first degree;
- 15.2.13 §611Assault in the third degree;
- 15.2.14 §612Assault in the second degree;
- 15.2.15 §613Assault in the first degree;
- 15.2.16 §615Assault by abuse or neglect;
- 15.2.17 §621Terroristic threatening;
- 15.2.18 §625Unlawfully administering drugs;
- 15.2.19 §626Unlawfully administering controlled substance or counterfeit substance or narcotic drugs;
- 15.2.20 §627Prohibited acts as to substances releasing vapors or fumes;
- 15.2.21 §629Vehicular assault in the first degree;
- 15.2.22 §630Vehicular homicide in the second degree;
- 15.2.23 §630AVehicular homicide in the first degree;
- 15.2.24 §631Criminally negligent homicide;
- 15.2.25 §632Manslaughter;
- 15.2.26 §633Murder by abuse or neglect in the second degree;
- 15.2.27 §634Murder by abuse or neglect in the first degree;
- 15.2.28 §635Murder in the second degree;
- 15.2.29 §636Murder in the first degree;
- 15.2.30 §645Promoting suicide.

#### Sexual Offenses

- 15.2.31 §763Sexual harassment;
- 15.2.32 §764Indecent exposure in the second degree;
- 15.2.33 §765Indecent exposure in the first degree;
- 15.2.34 §766Incest;
- 15.2.35 §767Unlawful sexual contact in the third degree;
- 15.2.36 §768Unlawful sexual contact in the second degree;
- 15.2.37 §769Unlawful sexual contact in the first degree;
- 15.2.38 §770Rape in the fourth degree;
- 15.2.39 §771Rape in the third degree;
- 15.2.40§772Rape in the second degree;
- 15.2.41 §773Rape in the first degree;
- 15.2.42 §774Sexual extortion;
- 15.2.43 §776 Continuous sexual abuse of a child;
- 15.2.44 §780Female genital mutilation.

Kidnapping and Related Offenses

- 15.2.45§781Unlawful imprisonment in the second degree;
- 15.2.46 §782Unlawful imprisonment in the first degree;
- 15.2.47§783Kidnapping in the second degree;
- 15.2.48 §783AKidnapping in the first degree;
- 15.2.49§785Interference with custody;

Coercion

- 15.2.50§791Acts constituting coercion;

- 15.3 Any crime which involves dishonesty or false, fraudulent or aberrant behavior and shall include by way of example and not of limitation the following crimes listed in Title 11 of the **Delaware Code Annotated**:

Arson and Related Offenses

- 15.3.1 §801Arson in the third degree;
- 15.3.2 §802Arson in the second degree;
- 15.3.3 §803Arson in the first degree;
- 15.3.4 §804Reckless burning or exploding;
- 15.3.5 §811Criminal mischief, Felony.
- 15.3.6 §820Trespassing with intent to peer or peep into a window or door of another;
- 15.3.7 §824Burglary in the third degree;
- 15.3.8 §825Burglary in the second degree;
- 15.3.9 §826Burglary in the first degree;
- 15.3.10 §828Possession of burglar's tools or instruments facilitating theft;

Robbery

- 15.3.11 §831Robbery in the second degree;
- 15.3.12 §832Robbery in the first degree.
- 15.3.13 §835Carjacking in the second degree;
- 15.3.14 §836Carjacking in the first degree;

Theft and Related Offenses

- 15.3.15 §840Shoplifting; Felony
- 15.3.16 §841Theft;
- 15.3.17 §843Theft; false pretense.
- 15.3.18§844Theft; false promise.
- 15.3.19 §845Theft of services.
- 15.3.20 §846Extortion;
- 15.3.21 §851Receiving stolen property;
- 15.3.22 §854Identity theft;
- 15.3.23860Possession of shoplifter's tools or instruments facilitating theft;

Forgery and Related Offenses

- 15.3.24 §861Forgery
- 15.3.25 §862Possession of forgery devices;

Offenses Involving Falsification of Records

- 15.3.26 §871Falsifying business records;
- 15.3.27§876Tampering with public records in the first degree;
- 15.3.28§877Offering a false instrument for filing;
- 15.3.29§878Issuing a false certificate;

Bribery Not Involving Public Servants

- 15.3.30 §881Bribery;
- 15.3.31 §882Bribe receiving;

Frauds on Creditors

- 15.3.32 §891Defrauding secured creditors;
- 15.3.33§892Fraud in insolvency;

Other Frauds and Cheats

- 15.3.34 §900 Issuing a bad check; Felony.
- 15.3.35 §903 Unlawful use of payment card; Felony.
- 15.3.36 §903A Re-encoder and scanning devices;
- 15.3.37 §906 Deceptive business practices;
- 15.3.38 §907A Criminal impersonation, accident related;
- 15.3.39 §907B Criminal impersonation of a police officer, fire fighter, emergency medical technician (EMT), paramedic or fire police;
- 15.3.40 §908 Unlawfully concealing a will;
- 15.3.41 §913 Insurance fraud;
- 15.3.42 §913A Health care fraud;
- 15.4 Any crime which involves misuse or abuse of children or animals and shall include by way of example and not of limitation the following crimes listed in Title 11 of the **Delaware Code** Annotated:
  - Child Welfare; Sexual Offenses, Animal Offenses
  - 15.4.1 §1100A Dealing in children;
  - 15.4.2 §1101 Abandonment of child;
  - 15.4.3 §1102 Endangering the welfare of a child;
  - 15.4.4 §1103 Child abuse in the third degree;
  - 15.4.5 §1103A Child abuse in the second degree;
  - 15.4.6 §1103B Child abuse in the first degree;
  - 15.4.7 §1105 Crime against a vulnerable adult;
  - 15.4.8 §1106 Unlawfully dealing with a child;
  - 15.4.9 §1107 Endangering children;
  - 15.4.10 §1108 Sexual exploitation of a child;
  - 15.4.11 §1109 Dealing in child pornography;
  - 15.4.12 §1111 Possession of child pornography;
  - 15.4.13 §1112 Sexual offenders; prohibitions from school zones.
  - 15.4.14 §1112A Sexual solicitation of a child;
  - 15.4.15 §1113 Criminal non-support and aggravated criminal non-support.
  - 15.4.16 §1325 Cruelty to animals;
  - 15.4.17 §1326 Animals; fighting and baiting prohibited;
  - 15.4.18 §1327 Maintaining a dangerous animal;
- 15.5 Any crime which involves offenses against the public order the commission of which may tend to bring discredit upon the profession and which are thus substantially related to one's fitness to practice such profession and shall include by way of example and not of limitation the following crimes listed in Title 11 of the **Delaware Code Annotated**:
  - Bribery and Improper Influence
  - 15.5.1 §1201 Bribery;
  - 15.5.2 §1203 Receiving a bribe;
  - 15.5.3 §1207 Improper influence;
  - 15.5.4 §1211 Official misconduct
  - 15.5.5 §1212 Profiteering
  - Perjury and related offenses
  - 15.5.6 §1222 Perjury in the second degree;
  - 15.5.7 §1223 Perjury in the first degree;
  - 15.5.8 §1233 Making a false written statement;
  - 15.5.9 §1239 Wearing a disguise during commission of a felony
  - 15.5.10 §1240 Terroristic threatening of public officials or public servants
  - 15.5.11 §1243 Obstructing fire-fighting operations;
  - 15.5.12 §1244 Hindering prosecution;
  - 15.5.13 §1245 Falsely reporting an incident;
  - 15.5.14 §1249 Abetting the violation of driver's license restrictions;
  - 15.5.15 §1250 Offenses against law-enforcement animals;

- 15.5.16§1253Escape after conviction;
- 15.5.17 §1254Assault in a detention facility;
- 15.5.18§1256Promoting prison contraband;
- 15.5.19§1257Resisting arrest with force or violence; Felony
- 15.5.20§1257AUse of an animal to avoid capture;
- 15.5.21§1259Sexual relations in detention facility;

Offenses Relating to Judicial and Similar Proceedings

- 15.5.22 §1261Bribing a witness;
- 15.5.23 §1262Bribe receiving by a witness;
- 15.5.24 §1263Tampering with a witness;
- 15.5.25 §1263A Interfering with child witness;
- 15.5.26 §1264Bribing a juror;
- 15.5.27 §1265Bribe receiving by a juror;
- 15.5.28 §1266Tampering with a juror;
- 15.5.29 §1267Misconduct by a juror;
- 15.5.30 §1269Tampering with physical evidence;
- 15.5.31 §1271Criminal contempt;
- 15.5.32§1271ACriminal contempt of a domestic violence protective order;
- 15.5.33§1273Unlawful grand jury disclosure;

- 15.6 Any crime which involves offenses against a public health order and decency which may tend to bring discredit upon the profession, specifically including the below listed crimes from Title 11 of the **Delaware Code Annotated** which evidence a lack of appropriate concern for the safety and well being of another person or persons in general or sufficiently flawed judgment to call into question the individuals ability to make health care decisions or advise upon health care related matters for other individuals.

Disorderly Conduct and Related Offenses

- 15.6.1 §1302Riot;
- 15.6.2 §1304Hate crimes;
- 15.6.3 §1311Harassment;
- 15.6.4 §1312Stalking;
- 15.6.5 §1313Malicious interference with emergency communications;
- 15.6.6 §1335Violation of privacy;
- 15.6.7 §1338Bombs, incendiary devices, Molotov cocktails and explosive devices;
- 15.6.8 §1339Adulteration;
- 15.6.9 §1340Desecration of burial place.

Offenses Involving Public Indecency

- 15.6.10 §1351Promoting prostitution in the third degree;
- 15.6.11 §1352Promoting prostitution in the second degree;
- 15.6.12 §1353Promoting prostitution in the first degree;

Obscenity

- 15.6.13 §1361Obscenity; acts constituting;
- 15.6.14 §1365Obscene literature harmful to minors

- 15.7 Any crime which involves the illegal possession or the misuse or abuse of narcotics, or other addictive substances and those non-addictive substances with a substantial capacity to impair reason or judgment and shall include by way of example and not of limitation the following crimes listed in Chapter 47 of Title 16 of the **Delaware Code Annotated**:

- 15.7.1 §4752Drug Dealing – Aggravated Possession, Class B Felony;
- 15.7.2 §4753 Drug Dealing - Aggravated Possession, Class C Felony.
- 15.7.3 §4754 Drug Dealing - Aggravated Possession, Class D Felony;
- 15.7.4 §4755 Drug Dealing – Aggravated Possession, Class E Felony;
- 15.7.5 §4756 Drug Dealing – Aggravated Possession, Class F Felony;
- 15.7.6 §4757 Miscellaneous Drug Crimes;
- 15.7.7 §4758 Unlawful dealing in a counterfeit or purported controlled substance.

- 15.7.8 §4761 Illegal possession and delivery of noncontrolled prescription drugs;
- 15.7.9 §4762Hypodermic syringe or needle; delivering or possessing; disposal; exceptions;
- 15.7.10§4771Drug paraphernalia;
- 15.7.11§4798Misuse of the Prescription Monitoring Program
- 15.8 Any crime which involves the misuse or illegal possession or sale of a deadly weapon or dangerous instrument and shall include by way of example and not of limitation the following crimes listed in Title 11 of the **Delaware Code** Annotated:
  - Offenses Involving Deadly Weapons and Dangerous Instruments
  - 15.8.1 §1442Carrying a concealed deadly weapon;
  - 15.8.2 §1443Carrying a concealed dangerous instrument;
  - 15.8.3 §1444Possessing a destructive weapon;
  - 15.8.4 §1447Possession of a deadly weapon during commission of a felony;
  - 15.8.5 §1447APossession of a firearm during commission of a felony;
  - 15.8.6 §1448Possession and purchase of deadly weapons by persons prohibited;
  - 15.8.7 §1448ACriminal history record checks for sales of firearms
  - 15.8.8 §1449Wearing body armor during commission of felony;
  - 15.8.9 §1450Receiving a stolen firearm;
  - 15.8.10§1451Theft of a firearm;
  - 15.8.11 §1454Giving a firearm to person prohibited;
  - 15.8.12 §1455Engaging in a firearms transaction on behalf of another;
  - 15.8.13 §1456Unlawfully permitting a minor access to a firearm;
  - 15.8.14 §1457Possession of a weapon in a Safe School and Recreation Zone;
  - 15.8.15 §1458Removing a firearm from the possession of a law enforcement officer;
  - 15.8.16 §1459Possession of a weapon with a removed, obliterated or altered serial number.
  - 15.8.17 §1471Prohibited Acts
  - Offenses Involving Organized Crime and Racketeering
  - 15.8.18 §1504Criminal Penalties
  - 15.8.19 §3532Acts of Intimidation: Class D felony
  - 15.8.20 §3533Aggravated act of intimidation, Class B felony
  - Other Crimes
  - 15.8.21 Title 16 §1136Violations – neglect or abuse of patient or resident of nursing facilities
  - 15.8.22 Title 21 §4177 Driving a vehicle while under the influence or with a prohibited alcohol content; evidence; arrests; and penalties, Felony
  - Title 7, Conservation
  - 15.8.23 §1717Unauthorized Acts against a Service Guide or Seeing Eye Dog (class D felony) (former)
  - Title 23, Navigation and Waters
  - 15.8.24 §2303 Operation of a Vessel or Boat while under the Influence of Intoxicating Liquor and/or Drugs (Class G Felony)
  - Title 24, Professions and Occupations Deadly Weapons Dealers
  - 15.8.25 §903 Sale to Persons under 21 or Intoxicated Persons (unclassified misdemeanor)
- 15.9 Any crime which is a violation of Title 24, Chapter 19 (Nurse Practices Act) as it may be amended from time to time.
  - 15.9.1 The license of any nurse convicted of a felony sexual offense will be automatically revoked. Applicants for licensure who have a conviction of a felony sexual offense are not eligible for licensure and a waiver will not be granted.
- 15.10 The Board reserves the jurisdiction and authority to modify this regulation as and if it becomes necessary to either add or delete crimes including such additions as may be required on an emergency basis under 29 **Del.C.** §10119 to address imminent peril to the public health, safety or welfare. The Board also specifically reserves the jurisdiction to review any crime committed by an applicant for licensure with regard to the temporal proximity of the crime or the conviction to the application and to determine whether the period of time involved has been so long as to negate any reasonable conclusion or determination that the crime for which the individual was convicted has a direct bearing on the individual's fitness or ability to perform one or more of



the duties and responsibilities necessarily related to nursing or to otherwise determine that sufficient restitution has been made for the offense committed.

- 1 DE Reg. 1898 (06/01/98)
- 3 DE Reg. 1373 (04/01/00)
- 4 DE Reg. 296 (08/01/00)
- 4 DE Reg. 677 (10/01/00)
- 4 DE Reg. 1500 (03/01/01)
- 5 DE Reg. 1606 (02/01/02)
- 6 DE Reg. 1195 (03/01/03)
- 7 DE Reg. 158 (08/01/03)
- 8 DE Reg. 864 (12/01/04)
- 8 DE Reg. 1089 (02/01/05)
- 8 DE Reg. 1683 (06/01/05)
- 9 DE Reg. 815 (11/01/05)
- 10 DE Reg. 1725 (05/01/07)
- 15 DE Reg. 685 (11/01/11)
- 15 DE Reg. 1622 (05/01/12)
- 17 DE Reg. 86 (07/01/13)
- 17 DE Reg. 1095 (05/01/14)
- 17 DE Reg. 1193 (06/01/14)
- 18 DE Reg. 322 (10/01/14)
- 18 DE Reg. 705 (03/01/15)
- 19 DE Reg. 432 (11/01/15)
- 20 DE Reg. 301 (10/01/16)
- 21 DE Reg. 735 (03/01/18)
- 22 DE Reg. 686 (02/01/19)
- 22 DE Reg. 785 (03/01/19)
- 23 DE Reg. 130 (08/01/19)
- 23 DE Reg. 682 (02/01/20)
- 24 DE Reg. 379 (10/01/20)
- 24 DE Reg. 886 (03/01/21)
- 25 DE Reg. 199 (08/01/21)
- 25 DE Reg. 786 (02/01/22)
- 26 DE Reg. 407 (11/01/22) (Final)