

DELEGATION & PRACTICE FAQs

Note: All FAQs are drawn from actual queries to the board. They are edited for length and clarity and identifying details are masked. Updated 5.23.16 Please see the link under Practice to see if there are other questions that may be in your area of interest.

Question: LPN Role in Infusion Therapy

We have been looking at the role of the LPN at our hospital. We have been specifically looking at Infusion Therapy (10.27.20.05 –C.) We would like clarification on what Direct Supervision means related to PICC, CVC and implanted ports for patients receiving TNP and Blood transfusions. If the RN is supervising the LPN with initiation of the TPN and Blood Transfusion can the LPN then monitor the patient or does the RN need to be with the LPN throughout the infusion?

Response:

Thank you for contacting the Maryland Board of Nursing with a question about the roles of LPN and RN in infusion therapy, specifically for administration of blood and total parenteral nutrition.

You correctly identified COMAR 10.27.20 as the relevant chapter to research in determining the RN/LPN role in infusion therapy. That chapter of regulations actually does define "Direct Supervision" and I have pasted the pertinent section at the bottom of this response.

Additionally, here is a link to the entire chapter. It would be wise to read the entire chapter to get context for specific citations.

http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.27.20*

Please understand that practice decisions surrounding patient care and safety need to be based on evidence and support best practices that are more detailed and specific, as well as being updated more frequently, than regulations. Other sources of evidence to consider are position statements of relevant professional organizations, such as the Infusion Nurses Society, as well as your facility's policies. Hospital/agency policy and procedure must support the minimum standards put forth in board regulations but may be more stringent, and certainly may be more detailed than the regulations. For example, your facility may have a definition of "direct supervision" that is more restrictive than the regulatory definition. Please understand that board staff do not interpret regulations or speak to facility/agency policies. The consideration of board regulations is but one piece of evidence upon which to make crucial patient safety decisions in the area of infusion therapy. I encourage you to work with your agency's nursing leaders to resolve these questions and develop evidence-based policies that support patient safety.

COMAR 10.27.20.02

(9) Direct Supervision.

(a) "Direct supervision" means oversight exercised by a registered nurse who is present on the unit of care during the infusion therapy process.

(b) "Direct supervision" includes the actions of:

(i) Observation;

(ii) Assessment;

(iii) Evaluation; and

(iv) Direction.

Question: Verification of Delegating Nurse Status

Recently, I have received several calls regarding the list of RN CM/Delegating Nurses on the MBON website as not available. When I checked your website, I read the breaking news message regarding the New Release Form. I shared this information with the local ... health services coordinators and I am receiving additional calls regarding Part II of the form. The local health service program coordinators and their nurses have taken the initial training since June 2005 and the staff who provided the initial training may no longer be employed at the state or local levels to provide signatures needed in Part II of the form.

Please recommend how Part II of this form should be completed for those who were trained earlier. Also, do you want us to use this form moving forward with all RN CMDN trainings which may occur in the future?

Thank you for the guidance.

Response:

Nurses listed as Delegating Nurses must have evidence of completing the course. That is why Part II contains the attestation of training and requires the instructor's signature and information about the specific training that occurred. If nurses cannot verify the initial instruction they have two options: 1) Locate who provided the initial instruction. You may use the "Look Up a License" feature of our website to locate the RN(s) who provided the initial instruction. Their contact information is available upon a written (email is OK) Public Information Act request to the board for the nurse's business address; in the absence of a business address, in accordance with the Public Information Act, the home address is released. In the event the original instructor is still in Maryland and has a current address on file, the nurse needing the signature can mail the form to the instructor for verification signature. If that is not possible, then 2) the nurse must repeat the course of instruction and obtain verification and instructor signature on Part II.

The mission of the MBON is to advance safe quality care in Maryland through licensure, certification, education and accountability for public protection. Verification of the status and training of Delegating Nurses protects the public. To answer your second question, YES, this form should be part of all RN Delegating Nurse training going forward. I have [attached it here](#) for your convenience and reference. The board will gladly post the information and maintain these lists as long as the individual signs the release of information and can verify training. Thank you for your support and service to the citizens of Maryland.

Question: Delegation & Employer Policies

I am hoping you can point me in to the right direction. I need some general information on assisted living and their rules and regulations.

My questions are:

1. Is there a ratio with LPN/CMT regulation regarding medications, treatments, injections of insulin?

2. How many residents that take medications can be assigned to one LPN/CMT?

For instance, the assisted living facility I work for has 38 residents on the Assisted Living and 16 in the Memory Care Unit. Out of the 54 residents, 52 receive medication.

It is one (1) person passing medication, doing treatments, administering insulin, eye drops, TENS machine, administering medicated creams, removal and applying TED hose, finger sticks for diabetics, plus handling any falls, physician orders, or emergencies with residents. We also need to receive daily medication from our outside pharmacy for the 45+ residents.

As well as charting, and each evening shift nurse/CMT is responsible for medication cart audit.

Our medication carts are stationary and do not move.

If you could help me with my questions I would appreciate it.

Response:

Thank you for contacting the Maryland Board of Nursing with a request for general information on assisted living and the applicable rules and regulations. The MBON does not regulate facilities, assisted living or otherwise. Please review the website for the Office of Health Care Quality (OHCQ) Regulations on Assisted Living: <http://dhmh.maryland.gov/ohcq/al/Pages/home.aspx>

As to your questions that are related to the regulation of nurses and certified medication technicians, and decisions on delegation of treatments, medications, and general nursing cares that you identified in this case (or any other), you will need to carefully review the available evidence. In this case, that means referring to Chapter 11 *Delegation of Nursing Functions* COMAR 10.27.11, pages 1-9 (linked here for your convenience). <https://www.dhr.state.md.us/documents/Licensing-and-Monitoring/Maryland%20Law%20Articles/RCC/COMAR%2010.27.11%20Delagation%20of%20Nursing%20Functions.pdf>

The Nurse Practice Act and Annotated Code of Regulations (COMAR) for Nurses are both available on our website but can be difficult to locate and sort through; we are in the process of revising our website to make it more user-friendly. It is essential to **read the entire chapter** as no one line or section can stand alone as you address these questions of nursing practice and delegation.

Additionally, for such important and far-reaching decisions, the registered nurse needs to refer to the Joint Statement on Delegation from the American Nurses Association (ANA) and the National Council of State Boards of Nursing (NCSBN). One of the attachments to the position statement (attached in this email) is an excellent Decision Tree for reaching a decision in the type of delegation questions you pose.

We realize you may have been hoping for an answer that quoted some Nurse:Patient ratios or a specific number of patients requiring medications that can be assigned to one CMT or nurse, or other quantified or definitive response. However, this type of issue can only be resolved by a thoughtful, evidence-based approach by the nurses and the agency/facility involved. It is not appropriate for someone remote from the situation to dictate specific practice decisions and delegation from afar. Please work with your agency leadership to resolve these questions keeping patient safety as the primary issue. Thank you for your care

to the citizens of Maryland and your support of the board's mission: to advance safe quality care in Maryland through licensure, certification, education and accountability for public protection. Most particularly, thank you for allowing us the opportunity to share with you the Board's commitment to evidence-based practice and regulation.

Question: Licensing Inactive v Volunteer Status

My current Maryland RN license will expire soon. I recently retired and was planning to renew as "inactive status." I see there is also a "volunteer status," both having the same renewal fee.

I am not able to find definite information about the volunteer status. Can you help me understand which renewal would be appropriate for me. I do volunteer work with my church, etc, but do not present myself as volunteering as a nurse. However, my many years of nursing background and being known to members there, I am asked many questions, maintain the first aid kit, etc. There is no fee (for my service) involved.

Response:

Thank you for contacting the Maryland Board of Nursing with a question about the difference between an inactive license or volunteer status.

A volunteer license is governed by section 8-312(c)(2)(ii) (Nurse Practice Act, p. 24), which says that a licensee may renew a license for an additional term to volunteer status if the licensee . . . pays to the Board a renewal fee set in Board's regulations [i.e. a reduced renewal fee of \$20] but only "if the licensee certifies to the Board that the licensee provides professional services only as a volunteer." (emphasis added) This means that the individual who chooses volunteer status may practice nursing in Maryland but is prohibited from receiving any compensation for practicing nursing as a volunteer. In addition, under section 8-312(f) and (g)(NPA, p. 25), a nurse renewing on volunteer status nurse is required to submit to a criminal background check per the schedule (every 10 years) for renewal applicants set forth in the Board's regulations.

In contrast, inactive status is governed by section 8-309 of the NPA (p. 22-23), which says that a licensee who renews to inactive status "may not practice nursing in this State" but may use the title "Registered Nurse" or "RN." NPA, page 23, section 8-309(c)(emphasis added). A licensee on inactive status is only subject to a criminal history records check upon an application for reactivation of the inactive license. See section 8-309(d)(1)(ii) (NPA, p. 24.)

One other important and very personal consideration is the finality of the retirement decision. Maintaining an active license for another renewal cycle keeps open the option to return to practicing your profession for compensation. Given the uncertainties of life and economics, it may be worth renewing the active status (provided you meet all other requirements for renewal) rather than closing the door on the possibility of practicing for compensation.

Regardless of which status you choose, we thank you for your service to the citizens of Maryland and wish you the best in your retirement.

Question: Employer Policies

I work at a facility that mandates to fill holes in schedule; is this legal?

Response:

Thank you for contacting the Maryland Board of Nursing with a question about scheduling work hours and your employer's scheduling practices. The mission of the MBON is to advance safe quality care in Maryland through licensure, certification, education and accountability for public protection. We exist to protect the public and draw our authority to do so from the Nurse Practice Act and Regulations. Nothing in the NPA and Regs addresses scheduling practices, employer-employee relations, or workers' rights. While you may look to employment laws and your agency's HR dept for guidance, I encourage you to engage your supervisors and nursing leadership in a meaningful discussion around patient safety outcomes to advance your concerns.

QUESTION: Chemotherapy

I am a compact state RN.

Can you please inform me at your earliest convenience whether specific advanced credentialing is required in the state of MD. for RNs to administer high risk chemotherapy agents via central lines in a clinic setting ?

Thank you in advance for your time.

RESPONSE:

Thank you for contacting the Maryland Board of Nursing with a question about chemotherapy.

Please see this excerpt from the Annotated Code of Maryland (regulations):

10.27.20.06 Infusion Therapy Acts-RN

....

B. The RN, upon completion of a second specialized educational program in infusion therapy which includes didactic content and a clinical practicum consistent with the standards established by the ONS or other bodies approved by the Board and with documented evidence of clinical competency, may perform the following additional infusion therapy activities:

- (1) Administer antineoplastic agents;**
- (2) Aspirate fluid from an intraventricular reservoir;
- (3) Administer fluids and medications via an intraventricular reservoir;
- (4) Manage implantable pumps by programming and filling with fluids and medications;
- (5) Insert, repair, and remove PICC and midclavicular catheters;
- (6) Insert and remove midline catheters;
- (7) Manage specialized catheters for analgesia;
- (8) Remove nonsurgically placed central and arterial catheters;

- (9) Administer pharmacological agents to de-clot or restore blood return; and
- (10) Repair a catheter.

Thank you for your interest in supporting our mission: to advance safe quality care in Maryland through licensure, certification, education and accountability for public protection.

Question: Declaratory Rulings

I have heard conflicting information about the Board's Declaratory Rulings. I understand that the Board no longer does them but how can I see the old ones?

Response:

Thank you for contacting the Maryland Board of Nursing for clarification on Declaratory Rulings (DR). It is correct that since 2008, the routine practice of asking for and receiving DRs from the Board ceased. The reason the Board withdrew all of its previously-issued declaratory ruling is because the regulations (see below) were not complied with in issuing the now-withdrawn declaratory rulings. Note that declaratory rulings can be appealed to circuit court (see .04C below- last line of regulation). Continuing to post these withdrawn DRs implied that they were still valid representations of the Board's decision. As is true with almost all state agency documents, DRs are available upon a proper written request (email is acceptable) to the [Custodian of the Records](#). Upon release, they are accompanied by a disclaimer stating that they are no longer valid positions of the Board and are not be used as a short cut to evidence-based decision-making. As has been presented in other responses to FAQs, the professional nurse needs to draw on multiple sources of evidence for sound decision-making. Professional organizations, Code of Federal Regulations, agency policy, accrediting bodies such as the Joint Commission, etc. are all sound sources of evidence and should be sought out and fully investigated before considering asking for a declaratory ruling from the Board. If after exhausting these other sources, the petitioner still desires a DR, the following regulations, cited in full, need to be consulted and complied with before a DR will be given.

COMAR 10.27.08 -Petition for Declaratory Ruling

.01 Definitions.

A. The following terms have the meanings indicated.

B. Terms Defined.

(1) "Board" means the Board of Nursing.

(2) "Person" means an individual, an agency, an association, a corporation, or any other entity.

.02 Petition.

A. An interested person may file with the Board a petition for a declaratory ruling with respect to the manner in which the Board would apply:

(1) A statute;

- (2) A regulation; or
 - (3) An order which the Board enforces to a particular case based on the facts presented in the petition.
- B. The Board may delegate responsibility for consideration of the petition.

C. Petition for Declaratory Ruling.

- (1) The petition for a declaratory ruling shall be filed in writing.**
- (2) The petition shall contain a statement describing in detail: interest of the petitioner in making:**
 - (a) The interest of the petitioner in making the request;**
 - (b) The issue involved;**
 - (c) A statement of the facts; and**
 - (d) A list of relevant documents or statements, or both, to be considered.**
- (3) The Board may require an affidavit from the petitioner that the facts contained in the petition are true to the best of the person's knowledge and belief.**

D. Granting of Petition.

- (1) Not later than 60 days from receipt of the petition the Board shall inform the petitioner whether the petition will be considered.
- (2) If the Board decides not to consider the petition, the Board shall inform the petitioner in writing of the reasons for denial.

.03 Consideration and Disposition.

- A. In rendering its ruling the Board or its designee:
- (1) Shall consider all materials submitted with the petition;
 - (2) May consider any document, data, or other relevant material;
 - (3) May consult individuals;
 - (4) May consider comments from the staff; or
 - (5) May require argument of the question or permit the introduction of evidence.

B. Disposition.

- (1) A declaratory ruling issued shall be in writing, stating the:
 - (a) Question;
 - (b) Decision;

(c) Description of factors considered; and

(d) Sources relied upon.

(2) A declaratory ruling issued by the Board shall plainly state that it is a declaratory ruling pursuant to these regulations.

(3) A written answer from the Board or any employee of the Board to an inquiry may not be construed as a declaratory ruling unless made in conformity with these regulations.

C. Publication and Inspection.

(1) The Board shall keep a record of each declaratory ruling issued.

(2) The Board may publish declaratory rulings of general interest subject to the mandates of the Public Information Act, State Government Article, §10-601 et seq., Annotated Code of Maryland, and allow inspection of the declaratory rulings subject to the Public Information Act.

D. The Board may refuse to consider a petition if the:

(1) Request contains incomplete information upon which to base an informed declaratory ruling;

(2) Board or its designee concludes that a declaratory ruling cannot reasonably be given on the matter;

(3) Matter is adequately covered by a prior:

(a) Regulation,

(b) Declaratory ruling,

(c) Decision,

(d) Legal opinion; or

(4) The Board or its designee concludes that a ruling would not be in the public interest.

.04 Effect, Revision, and Appeal.

A. Effect. A declaratory ruling shall be binding upon the Board and the petitioner on the statement of facts covered in the declaratory ruling and set forth in the petition.

B. Revision.

(1) The petitioner's application for revision of the declaratory ruling shall:

(a) Be filed within 10 days after the issuance of the declaratory ruling; and

(b) State the grounds for the revision;

(2) Upon receipt of the application, the Board may:

- (a) Open the declaratory ruling to receive additional information;
 - (b) Amend its ruling or its statement or reasons for the ruling;
 - (c) Set forth additional findings or reasons;
 - (d) Enter new findings, new reasons, or a new ruling.
- (3) The Board shall grant or deny the application within 90 days of its submission.
- (4) The Board may exercise revisory power and control over the declaratory ruling in the case of fraud, mistake, or irregularity.

C. Appeal. A declaratory ruling is subject to review as provided in State Government Article, §10-305, Annotated Code of Maryland.