

Purpose

The College of Licensed Practical Nurses of Manitoba (CLPNM), the employer, and the nurse all have a role in supporting quality practical nursing services. The purpose of this document is to offer information on how individuals who own or administer a nursing agency can contribute to the delivery of safe, competent, and ethical nursing practice by the nurses they provide or refer to the agency's clients, while also meeting requirements set out in their own professional standards (if applicable), *The Licensed Practical Nurses Act* (LPN Act),¹ and *The Regulated Health Professions Act* (the RHPA).²

Whenever this document refers to the responsibilities of an LPN employer, those responsibilities apply to all persons or organizations who employ LPNs, whether or not the employer themselves is a regulated healthcare professional. The CLPNM takes the position that these responsibilities apply to any person or organization in a relationship with an LPN that meets the indicators of an employee/employer relationship,² regardless of whether the agency refers to LPNs as employees or subcontractors.

Legislation

If you own or administer an agency that provides or refers licensed practical nurses (LPNs) to client organizations in Manitoba, you have responsibilities as an employer under the LPN Act. Similarly, if you own or administer an agency that provides or refers registered nurses (RNs) or registered psychiatric nurses (RPNs) to client organizations, you have responsibilities as an employer under the RHPA.ⁱ Although the LPN profession has not yet completed the transition to the RHPA, the obligations of an employer that are listed in the RHPA apply to any LPNs who are also employers, including agency owners and operators.

In this document, a "client" refers to any healthcare organization in Manitoba -- including but not limited to a hospital, a personal care home, or a regional health authority -- that enters into a contract for nursing services with a nursing agency.

The responsibilities of employers under the LPN Act and the RHPA, including agencies that provide or refer nurses to client organizations, include:

- [Confirming that the nurses you provide or refer to client organizations are authorized to practise.](#)

Subsection 66(1) of the LPN Act states: *No person shall knowingly employ or continue to employ a person to perform the practice of licensed practical nursing unless the person is a licensed practical nurse, or a graduate practical nurse registered under this Act.*

ⁱ Note that governing legislation for most if not all regulated health professions in Manitoba includes similar obligations for employers. Agencies are advised to consult all applicable professional legislation if they assign or refer health care professionals in addition to nurses.

Subsection 66(2) states: *Every person who employs a licensed practical nurse shall review his or her registration status annually.*

Section 167 of the RHPA states: *A person who employs or engages another person to provide health care as a member of a regulated health profession must ensure that the other person is registered and holds a valid certificate of practice issued under this Act during the period of employment or engagement.*

In short, you must ensure that nurses on your roster continue to be licensed and authorized to practise. Confirming registration at the time they are hired is not enough.

To confirm a nurse's authorization to practise, please visit:

[CLPNM Public Register](#)
[CRNM Nurse Check](#)
[CRPNM Public Register](#)

- Ensuring you do not permit a nurse to practise contrary to any condition on their registration, or contrary to requirements in legislation.

Both the LPN Act and the RHPA make it an offence for an employer to knowingly permit a nurse to fail to comply with a condition of the nurse's registration or certificate of practice.

Section 59(4) of the LPN Act states: *If the employer of a member knowingly permits the member to fail to comply with a condition of the member's certificate of registration, the employer is guilty of an offence and is liable on summary conviction to a fine of not more than \$10,000.*

Section 169 of the RHPA states: *No person who employs or engages a member shall knowingly permit the member to*
(a) contravene a provision of this Act or of the regulations; or
(b) fail to comply with a condition of the member's registration or certificate of practice.

The RHPA also makes it an offence for a person who employs or engages a nurse to contravene a provision in the RHPA or its regulations. This would include permitting the nurse to practise contrary to their standards, which are coded in regulations, or contrary to limitations on the performance of reserved acts, which are also in regulations.

Each nurse is personally accountable for practising within the conditions on their registration or certificate of practice. When an agency is aware of conditions, the agency must also communicate those conditions to the client organization. Some conditions cannot easily be met unless the client organization's management is given advance notice. This advance notice is necessary to ensure that the conditions can be accommodated within the practice environment in a way that minimizes the impact to clients.

Conditions on registration or a certificate of practice are posted to the public registers of each of the three nursing regulatory colleges in Manitoba. When you check to verify that

any new nurse you hire has an active and valid registration and certificate of practice, this is also your opportunity to inform yourself of any conditions limiting the nurse's practice.

By communicating information about any conditions on a nurses' registration or certificate of practice to the sites where they will be practising, you will be helping to facilitate safe and competent care while also ensuring you do not permit a nurse to practise contrary to their conditions, as is your obligation under 59(4) of The LPN Act and 169 of the RHPA.

When new conditions are placed on an LPN's registration, you should expect to be notified. The CLPNM will inform you directly, when our records indicate that you are the employer of an LPN whose registration is subject to conditions. However, even if you do not receive a notice of a condition direction from the CLPNM, the LPN in question has a responsibility to ensure that their employers, including any agencies that place or refer them, are aware of their conditions.

If an agency discovers that LPNs are not providing accurate and timely information about their practice conditions, the agency is encouraged to make disclosure of this information to the agency a contractual requirement, or a condition of employment, as applicable. You can help also to ensure you receive notices directly from the CLPNM by directing that the nurses you contract with keep their employment records with their professional regulatory body up to date.

- An agency must report to the appropriate regulatory body when you discontinue your relationship with a nurse for reasons of misconduct, incompetence, or incapacity.

Subsection 66(3) of the LPN Act states: *If a person who employs a licensed practical nurse terminates the licensed practical nurse's employment for misconduct, incompetence or incapacity, the employer shall promptly report the termination to the executive director and give the licensed practical nurse a copy of the report.*

The CLPNM interprets this responsibility to include circumstances where an agency chooses not to renew a contract with, or discontinues assigning shifts to, an LPN for reasons of misconduct, incompetence, or incapacity.

Subsection 168(1) of the RHPA states: If a person
(a) employs or engages a member to provide health care on a full-time or part-time basis in any capacity, including as an employee, contractor or consultant; and
(b) suspends or terminates the employment or engagement of the member for misconduct, incompetence or incapacity;
then that person must promptly report the suspension or termination to the council of the member's college and give the member a copy of the report.

Note that reporting to the CLPNM that your relationship with an LPN has been discontinued will not necessarily mean your report will be treated as an official complaint under the LPN Act. The CLPNM will assess the circumstances, and if the CLPNM determines that an investigation may be required, the CLPNM Executive Director may decide to refer the matter to the Investigation Committee. Also, note that if the agency does wish to report the matter as an official complaint, the agency may choose to do that. If the agency is the

complainant on record, the agency will be given information about the Investigation Committee's decisions and the reasons for the decisions, as required by section 23(3) of the LPN Act.

Also, note that any regulated health care professional who owns or operates a nursing agency may have a duty, under their professional standards, to report practice and conduct concerns. See more on this topic below.

Applying Your Professional Standards

Individuals who own or administer nursing agencies, who are also regulated health professionals themselves, are encouraged to review their professional standards and reflect on how they meet those standards in their administration role with the agency.

For example, most regulated health professionals have professional standards that relate to:

- supporting and advocating for safe, quality practice
- communicating effectively with all members of the team (in an agency context, the "team" would include the management of the client organizations you contract with), and
- reporting incompetent, unsafe, or unethical practice, misconduct, or incapacity to appropriate authorities, including reporting to the CLPNM if the nurse in question is an LPN. (See more on this below).

Nursing administration is a recognized domain of nursing practice, meaning the professional standards defined by nursing regulators apply when a nurse is practising their profession, in the domain of administration, by operating a nursing agency.

Also note that, if you are an LPN who owns a nursing agency, you are practising your profession in a self-employed capacity whether or not you also provide clinical nursing services through that agency. This means that you must meet all expectations outlined in the CLPNM's [Practice Direction on Self-Employed Practice](#). These expectations include submitting both of the following forms to the CLPNM, prior to commencing self-employed practice:

- Self-Employed Practice Business Name Registration Form
- Self-Employed Practice Questionnaire

Both forms are [accessible on the CLPNM website](#).

Other Ways to Support Quality Practice

In addition to the responsibilities under legislation and professional standards noted above, the CLPNM encourages all agencies that refer or assign LPNs to implement the practices and policies that can support and contribute to quality practice. Examples of such practices and policies include:

- Being familiar with the *CLPNM's Standards of Practice and Conduct, Code of Ethics, Entry-Level Competencies, and Nursing Competencies*. All CLPNM documents are available on the CLPNM website at www.clpnm.ca
- Using the guidance documents referenced above to support LPNs in meeting their professional obligations. For example, these documents can be used to inform job descriptions, policies, orientation programs, professional development activities, and performance appraisals.
- Keeping records of any concerns you receive, from client organizations, about the practice or conduct of nurses. Develop action plans when you identify that a nurse may benefit from remediation, performance management, or another form of intervention. This might include bringing those concerns to the attention of the nurse's regulatory body if the concerns are serious in nature or if there is an ongoing pattern of incompetence or misconduct that the nurse has not corrected.³ If an agency is aware of practice or conduct concerns, allows those concerns to go unaddressed, and continues to refer or assign the nurse in question, the agency could share in liability if a client comes to harm as a result.
- Developing clear policies and contractual obligations regarding a nurse's responsibility to disclose any new criminal charges and convictions to you, that might arise during the course of your relationship with the nurse, in addition the criminal background checks you request when you first enter into a business relationship with the nurse.
- Providing a written general orientation package when you enter into a new relationship with a nurse to help them prepare for the different worksites in which they may be asked to work.⁴
- Ensuring nurses receive an orientation to each worksite they may be referred or assigned to, as unfamiliarity with equipment, procedures and policies can make the worksite challenging and lead to practice concerns.⁵
- Ensuring nurses have access to support during each shift by making an agency supervisor available to answer questions, and by collaborating with each worksite to identify a dedicated on-site resource person for all shifts. Ensure the LPN knows who has been identified.
- Establishing a detailed handoff between the agency and the receiving unit manager/charge nurse on the nurse's competencies and experience (and, as noted above, any registration/certificate of practice conditions or limitations that impact the nurse's practice).
- Delivering relevant in-services and continued education to help nurses remain evidence-informed, safe, competent, and ethical in their practice.
- Obtaining proof of other continued education the nurse has obtained.
- Ensuring appropriate worksite assignments according to the nurse's competencies and experience.
- Instituting regular performance appraisals in collaboration with managers from worksites where the nurse has practised.
- Supporting the CLPNM's efforts to protect the public from misconduct or incompetence by completing and submitting employer practice reports to the CLPNM when requested by the CLPNM, which usually occurs when the CLPNM has concerns about an LPN's conduct or competence.

Shared Responsibility

The public interest is best supported when healthcare professionals and their employers agree that quality practice is a shared responsibility.

Nursing agencies have an important role to play in Manitoba's healthcare system; they help to ensure qualified healthcare providers are available to clients when required. By understanding and meeting requirements set out in legislation and professional standards, and by implementing practices that support safe, competent, and ethical nursing care, nursing agencies can contribute to accessibility and quality of care.

For More Information

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2. Government of Manitoba (2009). [*The Regulated Health Professions Act C.C.S.M. 2009, c. R117*](#)
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