

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 LPNs they provide or refer to the agency's clients, while also meeting requirements set out in their own professional standards (if applicable) and in *The Licensed Practical Nurses Act* (LPN Act).¹

The Licensed Practical Nurses Act

If you own or administer an agency that provides or refers LPNs to client organizations in Manitoba, you likely have responsibilities under the LPN Act. In this document, a client refers to any health care organization in Manitoba -- including but not limited to hospitals, personal care homes, and regional health authorities -- that enters into a contract for nursing services with a nursing agency.

The responsibilities outlined below apply to all persons or organizations who employ LPNs and apply whether or not the employer is a regulated health care professional themselves. The CLPNM takes the position that these responsibilities apply to any 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.

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

- [Confirming that the LPNs you provide or refer to client organizations have maintained their licence and registration.](#)

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.*

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

You must ensure that LPNs on your roster continue to be licensed and authorized to practise. Confirming registration at the time they are hired is not enough. Registration status must be verified at least annually.

- Ensuring you do not permit an LPN to practise contrary to any condition on their registration.

Section 59(4) of the LPN Act makes it an offence for an employer to knowingly permit an LPN to fail to comply with a condition of the LPN's certificate of registration.

Each LPN is personally accountable for practising within the conditions on their registration. When an agency is aware of conditions on an LPN's registration, 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 impact to clients.

Conditions on registration are posted to the CLPNM's public register. When you check to verify that any new LPN you hire has an active and valid registration, this is also your opportunity to inform yourself of any conditions on their registration.

When new conditions are placed on an LPN's registration, you should expect to be notified. In some cases, the CLPNM will inform you directly. However, in all cases, the LPN is directed 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.

By communicating information about LPNs' registration conditions to the sites where LPNs practise, you will be helping to facilitate safe and competent care while also ensuring you do not permit an LPN to practise contrary to their conditions, per 59(4) of The LPN Act.

- Reporting to the CLPNM when you discontinue your relationship with an LPN 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.

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 LPNs. Develop action plans when you identify that an LPN may benefit from remediation, performance management, or another form of intervention. This might include bringing those concerns to the CLPNM's attention if they are serious in nature or if there is an ongoing pattern of incompetence or misconduct that the LPN 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 LPNs 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 the LPN has 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 LPN's competencies and experience (and, as noted above, any registration conditions or limitations that impact the LPN's practice).
- Delivering relevant in-services and continued education to help LPNs 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 LPN's competencies and experience.
- Instituting regular performance appraisals in collaboration with managers from worksites where the LPN 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 health care professionals and their employers agree that quality practice is a shared responsibility.

Nursing agencies have an important role to play in Manitoba's health care system; they help to ensure qualified health care 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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References

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<https://web2.gov.mb.ca/laws/statutes/ccsm/l125e.php>
2. CNPS. (2006). *Collaborative Practice: Are nurses employees or self-employed?*
<https://cnps.ca/article/collaborative-practice-are-nurses-employees-or-self-employed/>
3. CLPNM. (2021). Standards of Practice and Conduct. (Revised) Effective from December 1, 2021. Accessible at: www.clpnm.ca
4. Birmingham C, van de Mortel T, Needham J, Latimer S. The experiences of the agency registered nurse: An integrative literature review. *Journal of Nurse Manager*. 2019; 27: 1580-1587. <https://doi.org/10.1111/jonm.12850>
5. College of Licensed Practical Nurses of Manitoba, College of Registered Psychiatric Nurses of Manitoba, and College of Registered Nurses of Manitoba. Duty to provide care guidance document. Winnipeg: 2019. Accessible at: www.clpnm.ca