

Self-Employed Practice

Practice Direction

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Practice directions assist practical nurses in understanding their responsibilities and legal obligations, enabling them to make safe and ethical decisions within their practice. Practical nurses are expected to comply with the information disseminated in practice directions. Failure to do so may result in investigation for misconduct and/or an audit of the nurse's practice.

Purpose

This practice direction provides licensed practical nurses (LPNs) and the public with information about the professional expectations of LPNs who engage in self-employed practice in Manitoba.

LPNs who practise nursing foot care or aesthetic nursing in a self-employed capacity must also review the CLPNM's practice directions on those topics for additional professional requirements specific to those areas of practice. These practice directions are available [on the CLPNM website](#).

Defining Self-Employed Practice

Self-employed LPNs are not employees of organizations, although they may be contracted to provide specific services. They provide nursing services independently or in partnership with other health care providers and may employ others.

Self-employed LPNs accept new clients with health needs that can be met by the nursing services they offer. They are expected to provide their services according to the legal scope of practical nursing, their professional standards, and their individual level of knowledge, skill, and judgment.

Self-employed LPNs provide nursing services in various areas, including direct care, administration, and consultation. Examples of self-employed LPN practice include:

- direct care—nursing foot care, nursing aesthetics, private duty nursing
- administration—operating a health care staffing agency
- consultation—health-systems navigation

Self-employed LPNs are accountable for complying with all applicable laws and with the standards of their profession. This includes *The Licensed Practical Nurses Act* (the Act), *The Licensed Practical Nurses Regulation*, the *Standards of Practice and Conduct*, the *Code of Ethics* and all CLPNM practice directions.

Determining If You Are Self-Employed

The nature of the LPN's work relationship with others usually determines whether they are working as an employee or are self-employed.

Factors to consider include ¹:

- Self-employed individuals operate their own business (e.g., sole proprietorship, partnership, or corporation). They are not subject to regular performance management by another person or company. In contrast, employees are under the direction and

control of the employer. Even if supervision is not directly exercised, employees are subject to performance management and accountable to a superior (e.g., business owner, manager).

- Self-employed individuals are hired directly by clients, which may be an individual or an organization. Employees are assigned to perform tasks related to the employing organization's core purpose.
- Self-employed individuals can choose which nursing services they offer, subject to their professional scope of practice and individual competence. Employees do not have control over the scope of the services provided by the organization, or the scope of their assignment.
- Employees are paid regularly—such as bi-weekly or weekly or based on the hours worked. In contrast, self-employed individuals collect income by invoicing clients, or their insurer, for services completed.
- Employees are not authorized to hire or terminate their own staff without the approval of the employing organization. In contrast, self-employed individuals may employ staff to assist them in completing work.
- Self-employed practitioners maintain clients' records and have all the responsibilities of a trustee under *The Personal Health Information Act* (PHIA). Employees document in health records maintained by the employing organization. While employees are also bound by PHIA, they do not have full responsibility for the custody and control of health records under the PHIA.

Registration Requirements

All nurses must meet their professional standards and registration requirements. LPNs who choose to practise in a self-employed capacity have additional requirements to maintain their registration and authorization to practise as a self-employed nurse.

Specifically, self-employed LPNs must:

- maintain current registration with the CLPNM and practise in accordance with any conditions or restrictions on their registration
- practise a minimum of 250 hours per registration year in their self-employed practice to maintain their competence in that area of practice, and maintain records of their practice hours which are subject to verification by the CLPNM upon request
- confirm their status as a self-employed LPN and confirm their business name on file with the CLPNM each year on their annual registration renewal application
- complete all Continuing Competence Program (CCP) requirements, including those that are specific to self-employed LPNs (see next section, below).

Note that self-employed practice does not provide an opportunity for former LPNs to practise the protected, legislated scope of practical nursing without valid registration. Any individual who is not registered with the CLPNM and is found to be practising or holding themselves out as a practical nurse in Manitoba will be prosecuted under the Act.

CCP Requirements for Self-Employed LPNs

Like all LPNs, self-employed LPNs must complete at least one Quality Improvement (QI) Learning Plan relevant to their practice

each year. If the LPN only works in a self-employed capacity, the QI Learning Plan will include a learning goal that assists the LPN to develop their competence in their self-employed practice.

If a self-employed LPN also works a second nursing job where they are an employee, the LPN is encouraged to consider completing a second QI Learning Plan in addition to the mandatory one. This is particularly the case if the LPN's self-assessment shows that learning needs and/or competence gaps are present in both areas of practice.

If a self-employed LPN is selected for the Quality Assurance (QA) Audit (Category 2), the LPN will then be required to complete a second learning plan. For most LPNs, this second learning plan must be developed after reflecting on feedback from an employer. Registrants who do not have an employer, such as self-employed LPNs, may obtain feedback from a colleague in place of an employer. Be sure to consult the CCP Instruction Guide for guidance on selecting a colleague.

Any self-employed LPN who is selected for either Category 1 or Category 2 of the CCP Audit must submit examples of nursing care plan documentation templates they use in their practice, as well as excerpts of their policy manuals, for review during audit. The specific policies that must be submitted are listed in the CCP Instruction Guide. During the audit, the policy manual excerpts will be reviewed for evidence that the registrant has kept their policies up to date and consistent with current best practices.

Refer to the CLPNM's Practice Direction on the Continuing Competence Program and the CCP Instruction Guide for more information on the CCP requirements for self-employed LPNs. These documents are available [on the CLPNM website](#).

Notifying the CLPNM of Self-Employment

When establishing a self-employed practice, the LPN must ensure that information about their self-employed practice is on record with the CLPNM.

Before commencing self-employed practice, the LPN must:

- complete and submit a CLPNM's Self-Employed Practice Business Name Registration Form to the CLPNM, and
- complete and submit the CLPNM's Self-Employed Practice Questionnaire.

As per the CLPNM By-Laws, this information must be on file with the CLPNM within 30 days of establishing the practice. Both forms are available [on the CLPNM website](#).

Establishing a Self-Employed Practice

LPNs who practise in a self-employed capacity take on additional legal and professional responsibilities, risks, and liabilities.

Self-employed LPNs do not have access to the resources usually made available by an employer that assists employed LPNs to meet their legal requirements and professional standards. These supports include policy frameworks, educational opportunities, a supervisor or manager, and co-workers to help identify risks and provide support.

Consequently, self-employed practice is only appropriate for LPNs who have the necessary knowledge, judgment, and skill required for safe, competent, and ethical practice in this context.

When an LPN is considering practising in a self-employed capacity, the LPN must:



- inform themselves of the additional professional and legal responsibilities and risks that they are taking on as a self-employed practitioner
- ensure they have the competence and resources needed to manage those responsibilities and risks, and
- obtain business and legal advice from qualified professionals before establishing a self-employed practice.

Service Planning

When an LPN is considering establishing a self-employed practice, the first step is to determine the scope of the services the LPN will offer.

When doing so, the LPN must ask themselves the following:

- How will I carry out the nursing process (assessment, determination/diagnosis, plan, intervention, evaluation) in my practice to ensure my services meet a defined client need?
- Are the services I plan to offer within the scope of my profession? (Consult with the CLPNM if you are unsure).
- Am I competent to offer the services I plan to offer?
- Are these services ones that will require me to collaborate regularly with, or make referrals to, other health care professionals, such as authorized prescribers? If so, how will I facilitate the necessary collaboration and referrals? (See more on interprofessional collaboration below).
- Do I have all the policies, procedures, equipment, and resources I need to provide safe, ethical, and competent care in a self-employed capacity? (See more on policies below).
- How will I maintain my competence and ensure my knowledge, skills, and judgment remain up to date when I do not have access to the guidance, mentorship, and education offered by an employer or a

team? (See more on registration requirements, including continuing competence, above).

- Do I have access to the evidence-based resources I will need to maintain my competence?
- Will my self-employed practice provide adequate practice hours to support maintaining my ongoing competence, and to meet the practice hour requirement noted above?

Risk Management

Risk management is also a significant aspect of building and operating a self-employed practice. Adequate risk management strategies work to prevent adverse events and minimize the impact of adverse events when they occur. A risk analysis must be conducted, and a risk management plan must be documented, before the LPN establishes a self-employed practice. The risk analysis informs service planning, procurement of equipment, harm prevention strategies, emergency management, and the development of policies, procedures, and protocols. The risk analysis and plan must address the following questions, at minimum ²:

- What are the actual and potential risks to the client related to the services I offer?
- What could go wrong?
- What would be the impact on clients if something went wrong?
- How bad would it be if something went wrong?
- How often is it likely that something adverse will happen?
- How can the risk to clients be mitigated from the outset, and to what extent?
- What specific action would I need to take to ensure I am ready to prevent, minimize, and manage risks?

- What can be done to control or minimize the associated consequences on clients if an event does occur?
- What specific action would I need to take to make sure I am ready to respond if something does go wrong?

This risk management plan should be reviewed and updated regularly. The frequency of the updates will depend on the level of risk associated with the area of practice and services provided; however, reviews must occur at least quarterly. At least annually, the LPN must conduct another risk analysis and update the risk management plan to ensure that the LPN continues to have the resources, policies, and capacity needed to manage risks appropriately.

Liability and Insurance

Adequate insurance protects clients as it provides clients with recourse if they have a claim against the business.

LPNs who work in a self-employed capacity require commercial general liability insurance, regardless of their business type or their number of clients. This insurance coverage is required in addition to the professional liability protection that LPNs are required to hold as beneficiaries of the Canadian Nurses Protective Society (CNPS).

Business insurance needs may vary depending on the business location, the type of service offered, and the number of employees. Self-employed LPNs may also require business insurance coverage for office space, equipment, and employees.

LPNs may obtain commercial insurance through their insurance broker or through the Canadian Nurses Protective Society.

Policies and Procedures

An LPN in self-employed practice must develop and maintain policies and procedures that provide clear directives regarding all aspects of their business and their nursing practice in accordance with CLPNM practice standards, applicable legislation, and evidence-based guidelines for best practice. Self-employed LPNs are required to submit evidence of their policies to the CLPNM upon request and whenever they are selected for the CCP Audit.

These policies must, at a minimum, address the following topics ³:

- adherence to legislated scope of practice and professional standards
- advertising
- appropriate procurement, maintenance, repair, cleaning, and storage of equipment or supplies
- billing and fee structure
- business management
- business continuity in the event of a catastrophic event
- collection, retention, confidentiality, security, and confidential destruction of client records
- cultural competence
- documentation
- human resources (if hiring staff, including processes for verifying staff members' competency and/or professional registration)
- infection control practices
- informed consent
- insurance
- management of client care, including consultation with or referral to other care providers
- medication administration
- recruiting and accepting new clients, and discontinuing the nurse-client relationship, and
- scope of business and nursing services provided.

Informed Consent²

Self-employed LPNs are responsible for obtaining informed consent from the client or the substitute decision-maker before providing services. Informed consent is a client's or substitute decision maker's agreement that they understand the services being provided, the fee for the service, and the benefits and risks involved in the services rendered. The individual providing consent must have the legal and mental capacity to do so.

Before initiating services, a self-employed LPN is responsible for obtaining documented informed consent at the initial visit for all new clients. With each subsequent visit, the LPN must again receive informed consent, which may be implied, given orally, or provided in writing as appropriate. Verbal or implied consent must be documented by the nurse in the client's health record.

The LPN's consent form, fee structure, policies, and practices must consider:

- the clients' intellectual capacity, health literacy, and ability to understand the nature of the procedure proposed, the benefits and risks, and their right to refuse the procedure
- the need to re-establish consent if the initial care plan, the fee structure, or the client's consent to the initial care plan is changed or reconsidered, and
- the fact that care should not be provided to a minor unless parental consent is obtained, or unless the LPN has determined that the mature minor doctrine applies, in which case the mature minor is entitled to give or refuse consent to a proposed treatment that a guardian may not override.

Client Health Records

A health record is a comprehensive, permanent, description of a client's health care status, needs, management, and care provided. Documentation in the health record is continuous and reflects the quality of care and the LPN's accountability in delivering care. The LPN must ensure a client health record includes:

- the client's name and address
- the name of the primary care provider, as well as any referring health professional
- nursing health history/assessment
- the date and reasonable documentation (including assessment, diagnosis or determination, planning, implementation, and evaluation) of each client visit (on-site or virtual contact), and
- a copy of written consent or documented verbal consent.

The self-employed LPN is expected to develop and maintain evidence-based, personalized nursing care plans and health records for their clients. A self-employed LPN must also follow current legislation related to retaining, storing, and destroying health records. All LPNs must understand that failing to document, falsifying a record, or breaching confidentiality constitutes professional misconduct.

Health Record Management

The CLPNM requires self-employed LPNs to retain client health records for at least ten years from the date of the last entry recorded. Health records of clients under 18 years of age must be kept for 10 years after the client reaches the age of eighteen. Self-employed practitioners are responsible for ensuring that client health records are stored securely. The records must not be accessible to any unauthorized individual, including other members of the LPN's household. When the LPN is transporting

client health records, care must be taken to maintain confidentiality and security.

Health record destruction must be done in a manner that preserves confidentiality and is in accordance with the PHIA. The preferred methods of destruction are supervised incineration or supervised shredding by a reputable company. When destroying health records, a permanent record must be maintained with a notation of:

- the name of the individual whose personal health information was destroyed
- the period covered by the destroyed records
- the method of destruction, and
- the person responsible for supervising the destruction.

Health records that are documented or stored electronically must also be subject to appropriate security safeguards. Client data must be protected so that it cannot be accessed by unauthorized individuals and cannot be altered or purged without proper authority. Backup copies of records should be stored in a separate and equally secure location.

The self-employed LPN who maintains electronic health records is responsible for ensuring that the system:

- can produce a written record if required
- maintains an audit trail that:
 - records the date and time of each entry of information for each client
 - indicates and dates any changes in the recorded information
 - preserves the original content of the recorded information when changed or updated, and
 - can be printed separately from the recorded information for each client
- includes a secure password or otherwise provides reasonable protection against unauthorized access, and

- automatically and securely backs up files and allows the recovery of backed-up files or otherwise offers protection against loss or damage to and inaccessibility of information.

Interprofessional Collaboration

Self-employed LPNs must operate as part of the larger health care system by establishing referral, consultation, collaboration, and feedback mechanisms with other health care providers. These mechanisms must include including sharing client health information, when appropriate, to facilitate coordination of care ².

Referrals

LPNs must consider the complexity of the client's needs when providing care. If the client's needs are beyond the LPN's individual capacity or competence to manage independently, the self-employed LPN must consult with or refer to another health care professional who has the authority and competence to provide the necessary care.

For example, if an LPN's assessment indicates that the client may require prescription medication, the LPN must collaborate with an appropriate and authorized prescriber (e.g., physician or nurse practitioner) as prescribing is outside of the scope of practice of all LPNs. However, the LPN may recommend and administer over the counter (OTC) medications if they have the competence to do so. The LPN must ensure the OTC medication they are recommending is treating an already diagnosed condition and not new symptoms requiring further assessment by a physician or nurse practitioner.

Using, Recommending, Providing, or Selling Client-Care Products

Recommending and selling client care products can create a conflict of interest for the self-employed LPN. As a self-employed LPN, you must identify and ethically manage potential conflicts when using, recommending, providing, and selling products.

You must avoid situations where the nurse-client relationship could be used for the nurse's benefit (i.e., any financial or another incentive that conflicts with the nurse's professional or ethical duty toward a client). Further guidance on this topic can be found in the CLPNM Practice Direction entitled [Therapeutic Relationships and Professional Boundaries](#).

Self-employed LPNs may use a wide range of products when providing client care. This might include ⁴:

- using products during a client-care visit, or
- recommending, providing free-of-charge, or selling products to clients for their self-care.

When selecting products, self-employed LPNs must use professional judgment to consider the ⁴:

- best interests of the client
- best available evidence from appropriate and objective sources, and
- client's individual needs and choices.

Before using, recommending, providing, or selling products, self-employed LPNs must also:

- confirm whether any products they intend to sell are listed as drugs under the [NAPRA Drug Schedules](#) and if so, refrain from selling such products, as doing so falls outside of the LPN scope of practice
- ensure any product considered a food, cosmetic, or therapeutic device is approved under the Canadian *Food and Drugs Act* ⁵

- provide objective, evidence-based health education to clients about factors to consider when selecting a product ⁴, and
- discuss evidence-based options and other products if available.

If a self-employed LPN supplies products for use in client care, the LPN is accountable for ⁴:

- ensuring that all products have a clinical benefit, defined as the positive impact of a product on the health of an individual, which has been documented in a reputable peer-reviewed publication ⁶
- procuring the products from appropriate sources, and
- storing the products according to the manufacturers' directions.

If the self-employed LPN uses, provides, or sells products, they must create and maintain records detailing the following for quality assurance and recall purposes ⁷:

- the actual costs of the product to the member, including any rebate or price reduction provided to the member
- the name of the manufacturer and the supplier of the product
- the date the product was supplied to the LPN
- the lot number of the product if any
- the expiry date of the product if any, and
- any additional costs incurred by the LPN, including any formula or calculation used by the LPN to determine the additional fee added to the product's price charged to the client.

Conflict of Interest

Engaging in the sale and promotion of products and services to clients may constitute a conflict of interest, real or perceived, where the LPN's interest conflicts with the duty to act in the client's best interests. The LPN must not exploit the client's trust and the power imbalance inherent in the nurse-client relationship for their advantage, financial or otherwise.

To avoid a conflict of interest when offering products and services for sale, the self-employed LPN must not:

- use their professional designation to endorse a particular brand or product directly to clients
- recommend or endorse any product or service to clients if the product or service is not clearly connected to the client's plan of care, or
- charge clients above market value (cost to the client may include all overhead costs reasonably incurred in making the product or service available for sale).

Advertising

Advertising means any communication made by an LPN to the public, or to one or more individuals, made orally, through print, broadcast, or electronic media, to promote the LPN or a private business with which the LPN is associated. This definition includes, but is not limited to, brochures, business cards, presentations, signs, social media, and websites.

LPNs advertising their nursing services must:

- accurately represent their professional designation (i.e., licensed practical nurse)
- ensure their advertising is clear, truthful, factual, accurate, and verifiable ⁸
- only advertise nursing services that they are authorized to and competent to perform ⁹
- ensure their advertising explicitly states all pertinent information about the nursing service with disclaimers as prominent as other aspects of the message ¹⁰, and
- communicate reasonable expectations regarding prevention or treatment of a condition or disorder when advertising a health product or nursing service ⁸.

The LPN advertising their nursing services must not:

- create an unjustified or unreasonable expectation about the results the LPN can achieve ¹¹
- display before and after photographs except where the LPN has performed the procedure or provided the treatment to the client depicted in the photograph, and where the client in the photograph has provided documented informed consent for the photograph to be shared ¹¹
- promise or offer more effective services or better results than those available from another health care provider ¹¹
- use power, position, or title to influence clients' decision-making ¹⁰, or
- make unsubstantiated claims or reference to guarantees of a drug, health product, nursing service, or results ¹⁰.

Interactions with Private Industry ¹²

In health care, private industry typically includes pharmaceutical companies, information technology businesses, and medical equipment manufacturers.

The primary purpose of any professional interactions between a self-employed LPN and private industry must be to improve the health of the clients the LPN serves. Any conflict of interest, actual or perceived, must be resolved by favoring the client's interests.

An LPN in self-employed practice may be offered gifts from private industry. The LPN must only accept inexpensive gifts of materials or supplies of a professional nature from private industry that will enhance client care. Any gift received must not risk reducing a client's trust in the self-employed LPN or the practical nursing profession.

Terminating a Practice

Before terminating a self-employed practice, the LPN must develop and implement a plan that, at minimum, provides for:

- the secure retention of client records for the entire retention period unless custody and control of the records are transferred to another regulated health care professional who agrees to securely maintain them for the duration of the retention period
- giving advance notice to clients if the nurse intends to close the practice and providing information on how they may request a copy of their record or to transfer their record to another health care professional
- safe disposal of equipment and supplies, as applicable, and
- closure of business accounts and payment of outstanding debts or fees.

For More Information

Visit our website at www.clpnm.ca for more information and resources.

Contact us with questions at
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About the CLPNM

The CLPNM is the governing body for the licensed practical nursing profession in Manitoba. Mandated to govern its members in a manner that serves and protects the public interest, the CLPNM establishes practice requirements for the provision of safe and effective nursing care.

References

The following documents were consulted during the development of this practice direction.

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