

Self-Employed Practice

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INTRODUCTION

The College of Licensed Practical Nurses and Health Care Aides of Alberta (CLHA) has the authority under the *Health Professions Act* (HPA) to carry out its activities and govern Licensed Practical Nurses (LPNs)* in a manner that protects and serves the public interest.

The practice of practical nursing encompasses both clinical care and roles that are linked to administration, management, education, and research in different settings. In these roles, an LPN can be employed or self-employed.

The area of self-employed practice may carry higher risks, and it is the responsibility of the LPN to analyze these risks and maintain systems to minimize them for the safety of clients and the public. The CLHA requires its LPNs to deliver competent, safe, and ethical care when providing professional services* and in alignment with legislative and regulatory requirements, including scope of practice considerations, continuing competency, and registration requirements.

PURPOSE

This guideline describes self-employed practice and provides guidance on professional expectations and obligations of LPNs who are self-employed or are considering self-employment in LPN practice. The information below is not to be construed as legal or business advice.

DISCUSSION OF EVIDENCE

Self-Employed Practice

Self-employed practice, also known as independent practice, refers to when an LPN provides professional services without being under the control or direction of another health professional, employer, or healthcare agency. This may be done alone; in collaboration with other healthcare professionals or an individual under contract; and, in some circumstances, as an employer. Self-employed practice includes when an LPN provides professional services as a business, a volunteer, a contractor, or in self-managed care.

* In this document, "LPN(s)" has the same meaning as "regulated member(s)" in the *Health Professions Act*.

* Professional service refers to the practice of nursing as defined in section 3 of Schedule 10 of the HPA

LPNs are advised to determine if they are working as an employee or if they are self-employed to understand the full extent of their responsibilities and potential liabilities. Some factors to consider include:

- 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, control, or supervision of another person in the organization.
- Self-employed individuals are hired directly by clients, which may be an individual or an organization. In contrast, employees are assigned to perform tasks related to the employing organization's purpose.
- Self-employed individuals can choose the professional services they offer, subject to their scope of practice and competence. In contrast, employees generally do not have control over the scope of the services provided by the organization or the scope of their assigned services.
- Self-employed individuals collect income by invoicing clients for services completed. In contrast, employees are paid regularly, bi-weekly, weekly, or based on the hours worked.
- Self-employed individuals may pay or employ staff to assist them in completing services. In contrast, employees generally are not authorized to hire or terminate their own staff without the approval of the employing organization.

The CLHA recommends that LPNs seek legal and business advice due to the complicated nature of determining employment status.

Self-Managed Care

Self-managed care is an alternate method of service provision. In self-managed care, the government provides resources directly to the client to pay for and manage their personal care and home care support services. The client then hires the service provider of their choice for the services they require. If an LPN is hired by the client on this basis, they are considered to be in self-employed practice.

Volunteering

An LPN is considered to be practicing independently when they provide professional services to a client as an unpaid volunteer. As a result, the LPN must follow all the requirements in this practice guideline to ensure the safety of their clients.

INFORMED PRACTICE

Regulatory Requirements

Self-employed LPNs are required to be compliant with relevant legislation and regulations regarding healthcare, privacy, and owning/operating a business. They are also required to follow any standards of practice, the code of ethics, and other regulatory policy documents that govern the LPN profession and the area of business in which they practice.

Scope of Practice

Scope of practice encompasses actions and interventions that nurses are authorized, educated, and competent to perform. According to the HPA and *Licensed Practical Nurses and Health Care Aides Professions Regulation* (LPN and HCA Profession Regulation), LPNs must provide only those services that they are competent to perform and only those restricted activities authorized in the *Health Profession Restricted Activity Regulation* (HPRAR).

To determine scope of practice, it is important to consider the LPN regulatory scope of practice, the work environment, the client, and the LPN's individual scope of practice. Please refer to the *Determining Licensed Practical Nurse Scope of Practice Guideline* for more information.

If the self-employed LPN or their employees intend to perform restricted activities requiring supervision, they are expected to meet the necessary supervision requirements (for example, direct, indirect, or remote supervision). Please refer to the *Standards of Practice for Licensed Practical Nurses on Restricted Activities, Advanced Practice, and Supervision* for more information.

In the interest of the client, self-employed LPNs are expected to collaborate with other healthcare professionals through established channels for consultation, referral, and feedback. LPNs are required to have a clear process for referring clients to other healthcare providers, facilities, and agencies when the client's care needs exceed their scope of practice or competency.

Continuing Competence Program (CCP) and Registration Requirements

To maintain a practice permit while practicing as a self-employed LPN, LPNs are required to meet registration, CCP, and actively engaged requirements. These are set out in the HPA, the LPN and HCA Profession Regulation, and other CLHA documents.

LPNs are expected to maintain their competence through professional development and the CCP. LPNs should consider completing their CCP requirements on topics related to the area of their self-employed practice. Please refer to the *Standards of Practice for Licensed Practical Nurses on Continuing Competence Program* for more information.

Also, LPNs must meet the practice hours requirements to maintain a practice permit with the CLHA. If an LPN primarily provides services that are not considered within the scope of practice of LPNs, (for example facials or waxing), the hours from these services may not qualify towards the practice hours requirement for registration. Please contact the Registration Department for more information. Refer to the *Actively Engaged Requirements for Registration* policy and the *Nursing Practice Self-Assessment Tool*.

Professional Expectations

LPNs are accountable and responsible for the provision of safe, ethical, and competent client care. As health care practitioners, they are required to apply their knowledge, skills, abilities, and judgement to provide the degree of care expected of an LPN.

LPNs must practice within boundaries established by:

- professional standards such as *Standards of Practice for Licensed Practical Nurses in Canada* and *Standards of Practice for Licensed Practical Nurses on Professional Boundaries*;
- ethical standards such as the *Code of Ethics for Licensed Practical Nurses*; and
- policies such as the *Professional Responsibility and Accountability* policy.

LPNs are responsible for quality assurance and risk management in their practice and are expected to always meet these expectations.

Conflicts of Interest

LPNs have a professional responsibility to be mindful of their actions and potential conflicts of interest. A conflict of interest occurs when an individual's personal interests (such as family, friendship, financial, or social factors) could influence their judgement, decisions, or actions while carrying out their professional duties. LPNs must provide nursing care in the best interest of their clients and try to avoid any circumstances that may compromise this obligation.

To prevent conflicts of interest, LPNs engaged in providing professional services are expected to:

- avoid advising, offering, or encouraging clients to use professional services they do not need.
- put the needs of their clients over their own personal, financial, or commercial interests. For example, referrals should be made in the client's best interest.
- recognize and refrain from behaviour that may lead to or be perceived as a conflict of interest.

LPNs may contact the Professional Practice Team at the CLHA to get more information on whether a conflict of interest exists in any situation in their practice. If a conflict of interest is unavoidable, LPNs should disclose information related to the situation to the appropriate

parties and consider ways to manage this ethically. LPNs may also manage this by referring the client to another healthcare provider who can provide the same service.

Advertising and Use of Titles

When advertising professional services, LPNs should:

- only advertise professional services that they are authorized and competent to perform.
- advertise content in a way that is clear, accurate, and truthful to avoid misleading or misinforming the public.
- avoid using exaggerated claims or guarantees that may mislead or compel the public.
- avoid exploiting superstitions and scientific claims.
- only recommend or sell a product or alternate service if it is appropriate and relevant to the professional services provided in their self-employed practice.

LPNs may only use titles authorized for an LPN in the HPA and the LPN and HCA Profession Regulation. Please refer to part 10 schedule 10(2) of the HPA and the LPN and HCA Profession Regulation for more information. LPNs should use the correct titles in a manner that is clear and not misleading to the public or client.

Informed Consent

Informed consent is the voluntary agreement of a client (or the client's authorized substituted decision-maker) to a treatment, intervention, or involvement in research. Informed consent can only occur after the client has received sufficient information on the service to be provided, its indications, the risks and benefits, how potential complications are managed, and any alternative options. The LPN should provide the client with the opportunity to ask questions, process the information, and make their decision. Informed consent is required before every treatment or course of treatment. Consent must be current, valid, and documented.

An LPN should determine that the client has the legal and mental capacity to give informed consent. If the client lacks capacity, the LPN should follow relevant legislation, such as the *Family Law Act* and the *Mental Health Act*, to determine the appropriate person to seek and obtain informed consent from on behalf of the client before providing professional services.

Safe Practice Environment

The self-employed LPN is responsible for creating a safe practice environment that promotes client safety. This can be done by maintaining policies and procedures that outline how to avoid and minimize harm, discrimination, and abuse.

LPNs in self-employed practice are expected to be compliant with legislation and regulations related to health and safety and follow guidelines and protocols to minimize hazards and the risk of harm. Creating a safe practice environment also includes ensuring that the physical

space and equipment are adequate to provide the services offered. All equipment should be maintained routinely, and all standards and protocols must be followed for the proper use of the equipment.

Infection prevention and control (IPC) guidelines help prevent harm and the transmission of infections in settings where professional services are provided. IPC guidelines should always be followed to promote clients' health and recovery process. Please refer to the CLHA's *Infection Prevention and Control* practice guideline for more information.

Information Management

LPNs are responsible for managing information in their custody in accordance with relevant legislation and regulations and CLHA requirements. LPNs are required to:

- document all professional services provided to the client in a timely manner;
- maintain the security and confidentiality of health records and other client information; and
- responsibly manage, release, and dispose of records in the custody of the LPN.

Documentation

Documentation is a critical component of nursing practice. It details the collection of personal and health information of clients, thereby creating a record of the care and services provided that can be used as a communication tool between healthcare providers. Documentation is also used as evidence in legal proceedings to show what care was planned and provided.

Quality documentation includes client records such as assessment, consent, medical orders, treatment, outcome, discharge, and follow-up consultations. The LPN should also maintain adequate documentation on medical directives, policies and procedures, the ordering and storage of products, advertisement materials, and courses and training undertaken by the LPN and other employees. For more information on documentation requirements, please see the CLHA policy on *Documentation*.

Safeguarding of Client Information and Records

LPNs in self-employed practice have a legal and ethical responsibility to maintain the security and confidentiality of client information disclosed to them. This includes the access, use, storage, and disclosure of information contained in physical or electronic records. Please refer to the *Confidentiality* practice guideline for more information.

LPNs are responsible for ensuring that client information is collected, used, stored, disclosed, and disposed of in compliance with applicable privacy legislation such as outlined in the *Health Information Act* (HIA), *Personal Information Protection Act* (PIPA), *Protection of Privacy Act*

(POPA), and Access to Information Act (ATIA). Please refer to the CLHA's *Privacy Legislation in Alberta* interpretive document for more information.

Self-employed LPNs are advised to establish appropriate policies and procedures consistent with federal and provincial privacy legislation.

Management of Client Information and Records

LPNs have an obligation to ensure the safekeeping of records and that clients have access to their relevant information.

In the event of the discontinuation of the self-employed practice, LPNs should notify clients in advance and answer any questions they may have about the transition. LPNs should also ensure they have appropriately managed their client and their records by:

- transferring clients and their records to another healthcare provider, or
- destroying the client's records appropriately or rendering the information unidentifiable to prevent the unauthorized access or disclosure of client information.

After the provision of care is complete, LPNs in self-employed practice also have an obligation to retain a client's personal information for a reasonable period for which it may be required for legal or business purposes. Consequently, client health records should either be transferred to an appropriate custodian or the registrant can retain the records following best practices.

LPNs in self-employed practice are advised to retain client health records for at least 10 years after the last day of record entry, or two years after a minor turns 18 years, or whichever is longer.

Use of Information Technology and Social Media

Information technology can be used to communicate and share client information. LPNs should be aware of how technology and social media increase the risk of violating or crossing professional boundaries. Additionally, social media should be used responsibly and professionally in a manner that upholds the integrity of the profession and safeguards client privacy and confidentiality. Please see the *Social Media and e-Professionalism Guidelines for Nurses* for more information.

Business and Legal Considerations

Self-employed LPNs are legally accountable and responsible for both professional and business aspects of the self-employed practice. They are expected to possess or seek knowledge in both areas.

LPNs are advised to seek advice from business professionals such as lawyers, financial or legal advisors, accountants, tax advisors, and insurance specialists.

CONCLUSION

This document outlines self-employed practice and the professional expectations that are involved. Self-employed LPNs must familiarize themselves with applicable legislation, regulations, and the CLHA's practice expectations. In addition, this document provides information on registration requirements, information management and documentation, and important areas to seek business and legal advice as a self-employed LPN.

Documents are updated frequently. For the most current version and access to related documents and resources, please visit the Knowledge Hub on clha.com.

If after reading this document you have questions, please contact the CLHA's Professional Practice Team via practice@clha.com or 780-484-8886 or 1-800-661-5877 (toll free in Alberta).