

2019 AK REG TEXT 528466 (NS)

Alaska Regulation Text - Netscan
12 AAC 44.321, 446, 770, 925, 945, 990
Notices of Proposed Regulations
July 12, 2019
Professional Regulations
FULL TEXT OF REGULATION(S)

Notice of Proposed Changes Relating to the Practice of Nursing in the Regulations of the Board of Nursing

The Board of Nursing proposes to adopt changes to the regulations regarding review of applications, loss of prescriptive authority, unprofessional conduct, advanced practice registered nurse (APRN) standards of practice for telehealth, administration of herbal or non-herbal nutritional supplement, and definitions.

Chapter 44. Board of Nursing.

12 AAC 44.321 is repealed:

12 AAC 44.321

12 AAC 44.321. Review of applications. Repealed. (Eff. 10/8/95, Register 136; am 4/27/97, Register 142; am 6/16/2002, Register 162; am 7/30/2002, Register 163; am 5/2/2004, Register 170; am 2/9/2007, Register 181; am 3/4/2007, Register 181; am 3/28/2008, Register 185; am 12/27/2012, Register 204; am 5/16/2018, Register 226; am 10/20/2018, Register 228; repealed ___/___/_____, Register _____)

12 AAC 44 is amended by adding a new section to Article 4 to read:

12 AAC 44.446

12 AAC 44.446. Loss of prescriptive authority. Investigations shall notify the federal Drug Enforcement Administration (DEA) and the prescription drug monitoring program (PDMP) of any final decision revoking or suspending prescriptive authority for a person licensed under AS 08.68. Investigations will notify the board's executive administrator when notification to the

DEA and PDMP has been completed. (Eff. ___/___/_____, Register _____)

Authority: AS 08.68.100

12 AAC 44.770 is amended by adding new paragraphs to read:

12 AAC 44.770

12 AAC 44.770. Unprofessional conduct. Nursing conduct that could adversely affect the health and welfare of the public constitutes unprofessional conduct under AS 08.68.270(7) and includes the following:

...

(40) failure to provide copies of complete patient records in the licensee's custody and control within 30 days after receipt of a written request from the patient or the patient's guardian;

(41) failure to notify the board of the location of patient records within 30 days after a licensee has retired or closed a practice;

(42) failure to give records to the patient, transfer the patient's records to a new medical provider, securely store in compliance with HIPPA the patient records for seven years from the closing of the practitioner's office; or, after seven years of storing the records, failure to properly destroy all of the patient records in compliance with HIPPA. (Eff. 4/27/83, Register 86; am 11/7/87, Register 104; am 4/9/94, Register 130; am 11/10/2002, Register 164; am 7/22/2004, Register 171; am 10/15/2004, Register 172; am 5/18/2006, Register 178; am 11/19/2008, Register 188; am 12/23/2009, Register 192; am 3/19/2014, Register 209; am 5/16/2018, Register 226; am ____/____/_____, Register _____)

Authority: AS 08.68.100

12 AAC 44 is amended by adding a new section to Article 9 read:

12 AAC 44.925

12 AAC 44.925. Advanced practice registered nurse standards of practice for telehealth. (a) An advanced practice registered nurse (APRN) may practice telehealth if the following conditions are met:

(1) the treating APRN, another APRN in the group practice, or a licensed physician in the state must be available to provide follow-up care;

(2) the treating APRN must request that the patient consent to sending a copy of the records to the patient's primary care provider if the treating APRN is not the primary care provider;

(3) an APRN may prescribe a prescription medication to a person without first conducting a physical examination only if there is an established patient-APRN relationship or the APRN has access to the patient's medical record, except

(A) for use in emergency treatment;

(B) for expedited partner therapy for sexually transmitted diseases; or

(C) in response to an infectious disease investigation, public health emergency, infectious disease outbreak, or act of bioterrorism;

(4) an APRN may not prescribe, dispense, or administer

(A) a prescription drug in response to an Internet questionnaire or electronic mail message to a person with whom the APRN does not have a prior APRN-patient relationship;

(B) a drug prescribed with the intention to initiate an abortion;

(C) an initial or renewed controlled substance prescription for a period longer than 72 hours;

(5) a record and documentation of telehealth encounters must be maintained to include:

(A) a clinical history to establish diagnoses and identify conditions and/or contra-indications to recommended treatment;

(B) a physical exam completed via telehealth technologies, or a previous in-person physical exam by the treating APRN, or a documented physical exam accessible by the treating APRN within the previous 365 days;

(C) treatment, recommendations, and issuing a prescription via electronic means; the treatment plan will be held to the same standards as those in traditional settings;

(D) patient informed consent for the use of telehealth technologies;

(E) compliance with HIPAA and medical record retention rules;

(F) transmissions, including patient e-mail, prescriptions, and laboratory results must be secure within existing technology to include password-protected, encrypted electronic prescriptions, or other reliable authentication techniques.

(b) In this section, "patient-APRN relationship" is establish when there is an in-person physical examination or examination by telehealth technology of the patient by the APRN or another APRN, physician, or a physician assistant in the same group practice and the patient record is available to the treating APRN.

(Eff. ___/___/____, Register _____)

Authority: AS 08.68.100

12 AAC 44.945 is amended to read:

12 AAC 44.945

12 AAC 44.945. Administration of **herbal or [A] non-herbal nutritional supplement.**

(a) A nurse licensed under AS 08.68 may administer a **herbal or** non-herbal nutritional supplement to a patient if

(1) the patient's health care provider has ordered that a **herbal or** [THE] non-herbal nutritional supplement **to** be administered to the patient;

(2) the patient or the patient's representative has requested that the nurse administer a **herbal or** [THE] non-herbal nutritional supplement to the patient;

(3) the nurse administering the **herbal or** non-herbal nutritional supplement knows the actions, possible side effects, and possible interactions of the [NON-HERBAL NUTRITIONAL] supplement with food, medications, or other substances;

(4) the use of the **herbal or** non-herbal nutritional supplement **and rationale** is included as part of the nursing care plan for the patient;

(5) the **herbal or** non-herbal nutritional supplement was commercially manufactured and the container of the [NON-HERBAL] nutritional supplement provided for administration to the patient was provided unopened with the manufacturer's seal intact **and administered prior to the expiration date**; [AND]

(6) **an in-house** [A] pharmacist **or consulting pharmacist** has reviewed all medications taken by the patient **including any herbal or** [AND THE] non-herbal nutritional **supplements** [SUPPLEMENT] ordered by the patient's health care provider for possible adverse effects or interactions with food, medications, or other substances; **and**

(7) the product manufacturer meets or exceed the good manufacturing practices (GMP) guidelines, with documentation available in the facility, or the product was purchased or supplied from a licensed pharmacy.

(b) Repealed 8/10/2016.

(c) A nurse licensed under AS 08.68 may not administer to a patient a **herbal or non-herbal** nutritional supplement that

(1) [CONTAINS ONE OR MORE HERBS; OR

(2)] was compounded for the patient rather than commercially manufactured; **or**

(2) is a controlled substance I - V as defined by the U.S. Drug Enforcement Administration.

(d) This section does not apply to United States Food and Drug Administration (FDA) regulated vitamins and minerals. A nurse licensed under AS 08.68 may administer FDA-regulated vitamins and minerals to a patient in the manufacturer's recommended dosage or as ordered by the patient's health care provider.

(e) As used in this section,

(1) "administer" means to provide a nutritional supplement to a patient for ingestion by the patient;

(2) "compounded" means the preparation, mixing, assembling, packaging, or labeling of a nutritional supplement;

(3) "health care provider" includes a licensed

(A) advanced practice registered nurse;

(B) doctor of medicine;

(C) doctor of osteopathy;

(D) physician assistant; and

(E) dentist;

(4) "herb" means a plant grown for its health or medicinal properties; "herb" includes plant parts and extracts;

(5) "non-herbal nutritional supplement" has the meaning given for a "dietary supplement" in 21 U.S.C. 321(ff) (sec. 3(a) of the Dietary Supplement Health and Education Act of 1994) as revised as of March 1, 2007, adopted by reference [, EXCEPT THAT IT DOES NOT INCLUDE A DIETARY SUPPLEMENT THAT CONTAINS ONE OR MORE HERBS];

(6) "nutritional supplement" has the meaning given for a "dietary supplement" in 21 U.S.C. 321(ff), (sec. 3(a) of the Dietary Supplement Health and Education Act of 1994), revised as of March 1, 2007, adopted by reference. (Eff. 8/30/2007, Register 183; am 11/19/2008, Register 188; am 5/7/2010, Register 194; am 8/10/2016, Register 219; am 5/16/2018, Register 226; am ___/___/_____, Register _____)

Authority: AS 08.68.100

12 AAC 44.990 is amended by adding a new paragraph to read:

12 AAC 44.990

12 AAC 44.990

(33) "telehealth" means the practice and delivery of nursing encompassing preventative, health promotion, and curative aspects using electronic communications, information technology, or other means between a licensee in one location, and a patient in another location within Alaska with or without an intervening healthcare provider; this includes diagnosing, treating, rendering an opinion, providing case management, and prescribing, dispensing, and administering a prescription drug. (Eff. 1/13/80, Register 73; am 10/8/81, Register 80; am 12/1/84, Register 91; am 4/2/86, Register 97; am 4/29/91, Register 118; am 7/28/95, Register 135; am 11/2/2001, Register 160; am 6/16/2002, Register 162; am 11/10/2002, Register 164; am 10/14/2004, Register 172; am 2/9/2007, Register 181; am 11/19/2008, Register 188; am 12/27/2012, Register 204; am 8/10/2016, Register 219; am 5/16/2018, Register 226; am ___/___/_____, Register _____)

Authority: AS 08.68.100 AS 08.68.275 AS 08.68.805