Practice Guideline

Independent Practice (Self-Employed Practice)

Revised: January 7, 2020
Practice Guideline: The legislative mandate of the College of Licensed Practical Nurses of Alberta (CLPNA) is to serve and protect the public by ensuring its members deliver safe, competent and ethical nursing care. A Practice Guideline is an evidence informed document designed to assist membership with making decisions about appropriate practices. These documents support professional judgment and permit flexibility in practice.
INTRODUCTION The mandate of the College of Licensed Practical Nurses of Alberta (CLPNA) is to regulate the profession in the public interest. To fulfill its duty, the CLPNA requires its members to deliver safe, competent and ethical nursing care. The CLPNA is committed to supporting Licensed Practical Nurses (LPNs) in meeting the requirements of the profession and to assuring the public that LPNs follow best practices in nursing.

PURPOSE This Practice Guideline presents information to guide LPNs who currently engage in or who are considering independent LPN practice. This Guideline provides guidance for the LPN on developing a business plan and obtaining liability protection.

Before starting an independent practice, it is important for the LPN to develop and establish policies and procedures related not only to the specific nursing services that will be provided, but also the business and legal aspects engaged by independent practice. As an LPN in independent practice, you should obtain legal and business advice. This practice guideline does not constitute legal or business advice nor does the CLPNA provide legal or business advice to members.

DISCUSSION OF EVIDENCE

What is Independent Practice?
LPNs in independent practice are not considered employees in the traditional sense and are not part of the organizational structure of an institution or health authority. They may provide services independently, in partnership with other health professionals in independent practice, or act as the employer of other health care providers. They generally provide services without supervision. LPNs who engage in independent practice may provide a wide range of professional nursing services to clients in a variety of practice settings.

As an independent practitioner the LPN may decide to enter into a contractor relationship with another business or organization by signing a “contract for service”. In these instances, the LPN remains in independent practice and is not considered to be an employee. Most often the LPN will provide their own tools and vehicle for travel.

The nature of the work relationship is what determines whether someone is working as an employee or contractor. Factors to consider include: direction and control over the manner of doing the work (ex: the results of the work and the method used to do the work); direction and control over the method and amount of pay (ex: payment vs. receipt of benefits, submission of invoices vs. receipt of regular wages/salary); ownership of facilities, supplies, tools and equipment; chance of profit or risk of loss; and integration into the work environment (Alberta Human Services, 2008). In order to understand the full extent of their responsibilities and potential liabilities it is important that the LPN determine their employment status.

Additional information can be found at https://alis.alberta.ca/pdf/cshop/contractor.pdf. Please note that interpreting employment status can be a complicated assessment and independent legal advice may be required.

Is Your Independent Practice LPN Practice?

Determine if your independent practice meets the criteria for active LPN practice, in other words, are you providing nursing services (Table 1).

Mandatory Registration and Use of the Title “LPN” or “Nurse” in Independent Practice
If the LPN’s independent practice is not considered to be LPN practice, the individual may elect not to be a registered member of the CLPNA. However, if the individual is not a registered member of the CLPNA, they cannot use the protected titles of “nurse”, “LPN”, or any other title which implies they are a regulated member of the CLPNA. The Health Professions Act (HPA; 2000) states that if the individual is providing services within the LPN scope of practice and they have training to be a member of the CLPNA, the individual must apply to become a registered member of the CLPNA. Penalties for
contravening these provisions are set out in section 48 of the HPA.

**Table 1. Criteria for Active LPN Practice**

The nursing services provided in the independent practice:

- are within the boundaries of LPN nursing practice set out in Schedule 10 of the HPA, and the Licensed Practical Nurse Profession Regulation (LPN Regulation);
- require application of the distinctive body of nursing knowledge which includes nursing theory, nursing science, and the use of the nursing process including care planning;
- are within the clinical, education, administration and research domains of LPN nursing practice; and
- are within the competencies required for LPN practice as set out in the Competency Profile for LPNs of Alberta (CLPNA, 2015).

The independent practice incorporates professional, ethical, and business standards.

**Registration, Continuing Competence and Practice Requirements**

As with all LPNs, LPNs in independent practice must meet the registration, continuing competence and practice requirements set out in the HPA and the Regulation. The HPA and LPN Regulation limit all LPNs to providing only those services they are competent to perform and only those restricted activities authorized in the Regulation. Of specific importance to LPNs in independent practice, if the LPN intends to provide restricted activities requiring supervision, the LPN must ensure the necessary supervision requirements are in place (Table 2).

**Table 2. Requirements in Independent Practice**

- The LPN possesses the knowledge, skills and expertise to safely and competently provide the nursing services directly to the public.
- The LPN establishes the necessary referral, quality assurance, risk management, policies and procedures, peer support, networking, and continued competency mechanisms to provide services safely.
- The LPN has established the necessary privacy and security of personal client health information according to privacy legislation as applicable.

**Risk Management**

Risk management is a significant aspect of building an independent practice. Adequate risk management strategies work to prevent adverse incidents from occurring and minimize the impact when they do. A risk analysis should identify elements such as:

- What could go wrong?
- How bad would it be if something happened?
- How often is it likely that something will happen?
- How can the likelihood that something will happen be mitigated from the outset and to what extent?
- What can be done to control the associated consequences?

The LPN should assess areas where their independent practice may result in:

- clients, staff and themselves being placed at risk of physical or psychological harm;
- disengaged staff;
- financial or reputational loss;
- service interruption (ex: power failures or lack of after-hours care);
- statutory non-compliance; and

**INFORMED PRACTICE**

The HPA (2000), LPN Regulation (2003), Bylaws (2016), Standards of Practice (CCPNR, 2013), Code of Ethics (CCPNR, 2013), and other relevant legislative acts must be used in the development of nursing specific policies/procedures. At minimum, LPNs in independent practice should have specific policies and procedures related to the following:
**Nursing Services**

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<tr>
<th>TOPIC</th>
<th>NURSING SERVICES POLICIES AND PROCEDURES</th>
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<td><strong>Scope of Services Provided</strong></td>
<td>- Clearly define the nature and scope of your nursing service, clients and settings of care.</td>
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<td>- Describe how your services encompass the definition of nursing, require application of nursing knowledge</td>
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<td>and the nursing process, and reflect the Standards of Practice (CCPNR, 2013) and Code of Ethics (CCPNR,</td>
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<td>2013) of the profession.</td>
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<td>- Although practice areas such as advanced foot care may be undertaken without supervision and without</td>
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<td>an order from another health care professional, it is the responsibility of the LPN to ensure that any</td>
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<td>necessary orders or supervision requirements are in place before services are provided to clients.</td>
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<td><strong>Referral Mechanisms</strong></td>
<td>- LPNs in independent practice must operate as an integral part of the healthcare system with interlinked</td>
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<td>referral and feedback mechanisms.</td>
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<td>- Establish your referral mechanism to other healthcare providers, facilities, and agencies, including</td>
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<td>stipulations and the method for sharing client health information.</td>
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<td><strong>Quality Monitoring Activities</strong></td>
<td>- Outline ongoing quality monitoring and systematic evaluation of your practice.</td>
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<td>- Document the process that clients can undertake if they are not happy with your service.</td>
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<td><strong>Continuing Competency</strong></td>
<td>- Complete an annual assessment of competence following the CLPNA’s 5-Step Model for Continuing Competency:</td>
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<td>1. Reflection and Self-Assessment</td>
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<td>2. Planning and Setting Learning Goals</td>
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<td>3. Implementing Learning in Practice</td>
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<td>4. Ongoing evaluation</td>
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<td>5. Record Keeping</td>
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<td><strong>Best Practices</strong></td>
<td>- Develop written procedures for the services you will provide in practice. As examples:</td>
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<td>▪ pain management, wound care, advance care planning;</td>
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<td>▪ infection prevention and control;</td>
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<td>▪ cleansing and sterilization of instruments; and</td>
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<td>▪ managing exposure to blood borne virus of self, client, and/or employees.</td>
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<td>- Ground all services in evidence-based practice.</td>
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<td>- Review provincial health legislation at <a href="http://www.health.alberta.ca/about/health-legislation.html">http://www.health.alberta.ca/about/health-legislation.html</a></td>
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<td><strong>Conflict of Interest</strong></td>
<td>- The LPN in independent practice adheres to all ethical principles and abides by the Code of Ethics (CCPNR, 2013). Well written policies can help you avoid conflict of interest situations. Some of these situations include, but are not limited to:</td>
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<td>▪ directly or indirectly recruiting clients from one’s employer; and/or</td>
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<td>▪ providing services to a client personally known to the LPN on a social basis.</td>
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Legal Aspects

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<th>LEGAL POLICIES AND PROCEDURES</th>
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| Client Information and Health Record Management | ▪ Security and integrity of client information must always be maintained.  
▪ Personal, identifiable information such as the client’s name, address and date of birth is governed under different legislation than the client’s health information.  
▪ Review relevant legislation such as the Health Information Act (2000), Personal Information Protection Act (2003), and Freedom of Information and Protection of Privacy Act (2000) and ensure compliance.  
▪ Note that applicable legislation is dependent on who your client is: an individual in the community; in a private facility; in a public facility; or on a reserve; or, your client may be an organization or healthcare facility in the private sector or in the public sector.  
▪ Develop policies for all aspects of managing client information including:  
  ▪ collection, use and disclosure of personal and health information;  
  ▪ client access to their personal and health record information;  
  ▪ security, integrity, storage and retention of client records; and  
  ▪ secure disposal of client records for clients no longer receiving your service.  
▪ Note that LPNs are not recognized as custodians in the Health Information Act (2000). Therefore, you should consult with a Privacy Officer if you require collection, use, storage and disclosure of client health information either in paper format or electronically. For more information on how to conduct a Privacy Impact Assessment and how to contact the Office of the Information and Privacy Commissioner of Alberta visit [https://www.oipc.ab.ca/action-items/privacy-impact-assessments.aspx](https://www.oipc.ab.ca/action-items/privacy-impact-assessments.aspx). If you are in an employer role in your independent practice, you are responsible for personal and health information privacy, security policy development, and bear the ultimate responsibility for the protection of client information of your employees and sub-contractors. |
| Confidentiality | ▪ Client confidentiality must be maintained at all times.  
▪ Written client authorization is required prior to releasing or obtaining client information to or from anyone, including referring agencies or healthcare providers.  
▪ Ensure you have a consent form for release of personal health information and written policies that govern disclosure of client health information with others. |
| Informed Consent | ▪ You will need to develop a consent form for new clients to sign prior to providing services. Legally, you must receive informed consent from your clients prior to initiating any procedure or nursing intervention. Demonstrating your knowledge and ability to obtain informed consent throughout care delivery is a required competency for LPNs in Alberta. Consent may be implied, given orally, or provided in writing as appropriate. Verbal or implied consent should be documented in the client health record.  
▪ For the consent to be ‘informed’ you must provide explanation, alternatives and consequences for any procedures. Your consent form and policies should consider: |
- assessment of the client’s intellectual capacity, health literacy and ability to understand the nature of the procedure proposed, the benefits and risks, and the right to refuse the procedure. Consent is only valid if the client is competent;
- the need to re-establish consent if the initial care plan and/or the client’s consent to the initial care plan is being changed or re-considered; and
- that care should not be provided to a minor unless parental consent is obtained. However, the mature minor doctrine, states that a mature minor is entitled to give or refuse consent to a proposed treatment that a guardian may not override. This does not apply to minors who are wards of a director under the Child, Youth and Family Enhancement Act (College of Physicians and Surgeons of Alberta, 2015).

**Documentation**

- In independent practice you must maintain confidential and accurate records for each client. Your policies for documentation should reflect evidence-based practice.
- Documentation must show evidence of continuity of care and include appropriate reports of assessments, diagnoses, plans, interventions and client outcomes as well as referrals and consultations with other care providers. Develop policies for documenting and managing incidents/adverse events; and the type and frequency of documentation required. It is generally recommended that documentation include:
  - a general client information form;
  - a contract signed and dated by both the LPN provider and the client identifying nursing services the client can expect;
  - a voluntary consent form signed and dated by the client or substitute decision-maker to accept implementation of said services;
  - documentation of services provided including client response;
  - time and date of contacts with the client;
  - referrals/referral forms for consultation with other professionals; and
  - a signed and dated release of information in the event of referral to other health professionals or agencies.

**Contract Agreements**

- Agreements and accompanying policies include contracts with your clients for services provided (e.g., written contract), form of payment, and what they are to do should they become unsatisfied with your service.
- The agreements should also stipulate how a contract may be terminated by either yourself or the client.
- You may require contract agreements for services sub-contracted to other providers practicing independently, or for any employees hired in your independent practice.
### Business Aspects

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| **Advertising**| ▪ Advertising is a significant aspect of independent practice. Clients will want to know your professional qualifications, what services you are providing, the cost of these services, and the form(s) of payment accepted.  
▪ When advertising your independent practice, you must abide by ethical principles to ensure that advertising provides accurate and factual information and does not exaggerate the benefits of the services provided, misrepresent the competence and experience of the LPN provider, compare the quality of his/her services with those of another provider in an overstated way, mislead the public, or detract from the public image or integrity of the LPN profession.  
▪ You may not use the logo of the CLPNA or an employer (previous or current), or make any other representation which would falsely imply you are a paid employee carrying out nursing service on behalf of either the CLPNA or an employing healthcare agency. |
| **Fees**       | ▪ There is no legislation in Alberta that governs the fees LPNs can charge clients either directly-out-of-pocket or to their private insurance companies.  
▪ A business consultant can help you to determine the fair market value of the nursing service you are providing. If you cannot find a comparable service in your community, consider comparable jurisdictions or areas (such as other provinces) and use professional judgment to determine if your proposed fees are reasonable. It may be interpreted as professional misconduct to charge an excessive fee in relation to the services you provide. Although the College does not approve or determine fees, other associations and services may have resources to help you with setting fee-for-service.  
▪ With respect to client billing, the Alberta Health Care Insurance Plan (AHCIP) provides coverage for specific medically necessary goods and services. You may wish to contact the AHCIP to discuss your business plan and review any implications that Alberta Health’s benefits regulations may have. AHCIP may be contacted by telephoning 780-427-1432 or by email at health.ahcipmail@gov.ab.ca |
| **Selling Products** | ▪ LPNs are not authorized to dispense, compound, provide for selling, or sell a Schedule 1 drug or Schedule 2 drug within the meaning of the Pharmacy and Drug Act (Government Organization Act, 2000, Schedule 7.1 (2)(1)(h)).  
▪ To help you determine if a preparation you are using is regulated as a drug, refer to the national drug schedule on the National Association of Pharmacy Regulatory Authorities website. If you are still not sure if the preparation fits the definition of a medication, you may wish to consult the CLPNA.  
▪ LPNS should not use their designation to sell or promote the sale of unnecessary products. |
| **Contracts**  | ▪ There are two types of contracts you will require: one for your clients and one for your staff/sub-contractors (if applicable).  
▪ The client contract describes the services to be provided, outlines the fee-for-service expectations and form(s) of payment accepted for services, and the |
client’s ability to withdraw consent if dissatisfied with service(s) provided.

- The **contracts for human resources** aid in operating your business and/or providing your services, are dependent on how you wish to operate your business. You may choose to hire employees or sub-contract other self-employed care providers. An employee-based business requires you to manage payroll and necessary tax deductions, whereas sub-contractors submit an invoice to your business for services rendered. You pay the invoice like any other business expense. The sub-contracted individuals are responsible for managing their own deductions and remittances to Revenue Canada.

### Human Resources

- You will need to establish a variety of human resource policies and procedures to successfully operate your business including staff credentials, performance expectations and reviews, code of conduct, staff scheduling, vacation requests, cover-off and other types of governing documents.
- You will need to develop policies for safeguarding the privacy and security of personal employee information in compliance with the Personal Information Protection Act (2003).
- You will need to consider WCB coverage for any staff hired as an employee of your business. For more information visit [https://www.wcb.ab.ca/resources/for-employers/](https://www.wcb.ab.ca/resources/for-employers/)

### Business/Financial Records

- Keep your business/financial records separate from client health records
- Retain business records as required by Revenue Canada and ensure you have a financial record for every client to whom you have charged a fee-for-service.

### Termination of Practice

- The LPN in independent practice must have a plan for the termination of practice with regards to dissolution of business:
  - clients of the service;
  - referral sources;
  - employees;
  - transfer of clients;
  - maintaining or destroying client contracts and health records;
  - closure of business accounts and payment of fees; and
  - catastrophic events such as death or unforeseen circumstances.

The CLPNA advises members to plan to retain records for a minimum of ten years following the date of last services, and in the case of minor clients, for at least two years past the age of majority or ten years, whichever is longer. This recommendation aligns with the expected practice of members of other health regulatory colleges in Alberta who follow the **Operation of Approved Hospitals Regulation** (College of Dieticians of Alberta, 2014; College of Physicians and Surgeons of Alberta, 2016).

It is therefore the responsibility of the LPN to ensure ongoing management of their client health records during this timeframe. The LPN should develop policies, practices and contingency plan(s) to ensure records will be adequately stored and safeguarded in the event of death or an unforeseen circumstances that result in the termination of their practice.
Business Plan
A business plan is a written document that describes the nature of the business, sales and marketing strategy, financial background, and contains a projected profit and loss statement. A business plan for your independent practice should include a written description of your intended nursing practice, and how services will be provided. Consider items such as business structure, financing, business records, and insurance.

Liability Protection
Independently practicing LPNs in good standing with the CLPNA are eligible for professional liability protection from Lloyd Sadd Insurance Brokers Limited. The insurer provides you with coverage for incidents that arise out of the provision of nursing care. Therefore, it is imperative to ensure the service you are providing in your independent practice is nursing practice in order to maintain your eligibility for insurance and liability coverage (Table 1).

As an LPN in independent practice it is your responsibility to determine whether additional insurance coverage, such as WCB and commercial liability protection, is required.

If you hire other health professionals to provide services, it is important to recognize that you may be legally and financially responsible for certain wrongdoings the employees may commit within the scope of their employment with you. You may wish to seek legal advice.

Independent Practice Checklist
The following checklist is an important tool for you to use as you begin, and continuously evaluate, your independent practice.

The LPN in independent practice:
- Adheres to the same professional, legal and ethical accountabilities and responsibilities as LPNs who are employees in healthcare and other types of organizations; and has additional accountabilities and responsibilities to manage, while offering nursing services that fall within the LPN’s scope of practice.
- Adheres to relevant legislation and regulations (related to regulated health professional; duty to report; adverse event disclosure and reporting; privacy and security of clients’ personal and health information, etc.).
- Is compliant with the Standards of Practice, Code of Ethics, Competency Profile, and published guidelines of the CLPNA.
- Has the expertise and skill to provide services safely and competently as an LPN in independent practice including the appropriate credentials/specialty certifications as applicable and a sufficient knowledge base of the specific nursing practice.
- Maintains competency in the area of independent nursing practice through on-going self-assessment of learning needs, taking the necessary steps to address those needs, and by participating in the CLPNA’s mandatory Continuing Competency Program.
- Is able to recognize when a referral is required for a client when their care needs exceed the LPNs’ scope of practice.
- Can carry out the legal obligations related to protecting health information.
- Has established legal, nursing, and business policies and procedures.
- Has the competency to start and operate a nursing practice business.
- Has consulted with a lawyer and accountant.
- Has a business plan.
- Has financing in place.
- Has determined with a lawyer which business structure is required.
- Has a marketing strategy.
- Has developed business policies and procedures.
- Has advertising within legal and ethical parameters.
- Has commercial and professional liability insurance in place.
If after reading this document you have questions about Independent Practice, please contact the CLPNA Practice Team at practice@clpna.com, 780-484-8886 or 1-800-661-5877 (toll free in Alberta).

OTHER RESOURCES


REFERENCES


Licensed Practical Nurses Profession Regulation, Alta Reg 81/2003.


