

# STATEMENTS OF POLICY

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF NURSING

#### [ 49 PA. CODE CH. 21 ]

#### Interpretations Regarding the Administration of Drugs—Statement of Policy

The State Board of Nursing (Board) provides notice of its intent to amend § 21.413(d)(1) (relating to interpretations regarding the administration of drugs—statement of policy) to read as set forth in Annex A. This statement of policy is intended to provide guidance to Board-regulated practitioners, other healthcare providers, health and hospital systems and the general public.

#### *Effective Date*

This statement of policy will take effect upon publication of the final-form statement of policy in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

Sections 8.2(c) and 8.3(b) of the Professional Nursing Law (RN Law) (63 P.S. §§ 218.2(c) and 218.3(b)) authorize certified registered nurse practitioners (CRNP) who meet the requirements of section 8.3(a) of the RN Law to prescribe medical therapeutic or corrective measures within the terms of the collaborative agreement. Section 21.401(d) (relating to interpretations; scope of practice) delineates the procedure for adopting a statement of policy, including publication of a notice and review and consideration of public comments received following publication of the notice.

#### *Background and Purpose*

In 1998 when § 21.413(d) was last amended, CRNPs had not yet been granted the authority under the RN Law to prescribe. Since that time, sections 8.2(c) and 8.3(b) of the RN Law were added authorizing CRNPs who possess prescriptive authority to prescribe medical therapeutic or corrective measures, including conscious sedation under § 21.284(b)(7) (relating to prescribing and dispensing parameters). Therefore, the Board proposes to amend § 21.413(d)(1) to reflect the changes in the RN Law. This amendment would authorize CRNPs within the scope of their collaborating agreements to order intravenous conscious sedation medications. Additionally, it would authorize CRNPs to be physically present so that registered nurses (RN) can administer these medications.

As required by § 21.401(a), on December 28, 2018, the Pennsylvania Coalition of Nurse Practitioners (PCNP) requested that the Board modernize § 21.413(d)(1). It maintained that at times, in both inpatient (acute) and ambulatory (outpatient) settings, the CRNP may be the primary care provider for the patient and may be the only health care provider present, especially overnight. Waiting for a physician to order the medications or be physically present for their administration creates unnecessary delays, for example, when a patient is in respiratory distress and needs to be intubated but no physician is present to order or view the administration or in cases where only CRNPs and physician assistants are manning intensive care units or emergency rooms.

The proposed interpretation is consistent with the Department of Health's (DOH) regulations in 28 Pa. Code §§ 107.61, 107.62, 107.64, 107.65, 109.23, 109.61 and 211.7.

Although not required for the promulgation of a statement of policy, the Board sent an exposure draft to stakeholders on August 9, 2019. The Board received comments from licensees as well as professional associations about this proposed statement of policy. On August 9 and 19, 2019, Kathleen G. Hoover, PhD, RN, Dean, Nursing & Health Sciences, Neumann University, Therese M. Sayers, MS, RN, Assistant Professor of Nursing, Lock Haven University and Rose O'Driscoll, PhD, RN, separately expressed their support for this proposed amendment.

On September 4, 2019, John P. Gallagher, MD, then Chair, Board of Trustees of the Pennsylvania Medical Society (PAMED) submitted seven questions to the Board so as to gain a better understanding of the Board's decision. Specifically, PAMED questioned the impetus for the proposed change, how the DOH's regulations comport with or conflict with the proposed change, and whether the proposed change aligns with CRNP scope of practice and education requirements. PAMED also questioned whether the prescriptive authority collaborative agreement must specifically authorize the CRNP to issue this order to the RN, how the Board will oversee the proposed change, whether the CRNP who issued the order must be present when the order is carried out or whether another CRNP can be present and could a CRNP be present if the physician issued the order. Finally, PAMED sought a definition for "minor therapeutic and diagnostic procedures."

On September 9, 2019, the Hospital and Healthsystem Association of Pennsylvania, the Pennsylvania Association of Certified Nurse-Midwives, the Pennsylvania Association of Nurse Anesthetists, PCNP, the Pennsylvania Rural Health Association and the Pennsylvania State Nurses Association collectively strongly supported this proposed amendment. They reiterated the position of PCNP that this proposed amendment would ease patient care delays in both acute and ambulatory care settings. Also, on September 9, 2019, Patrick V. Norton, Chief of Staff, Office of the EVP/Dean, Vice President for Public Affairs, and Secretary, Penn Medicine Board, Perelman School of Medicine, University of Pennsylvania Health System, added that this proposed amendment would modernize the statement of policy and reflect contemporary health care practice.

The Board also received input from Paula M. Susi, MSN, RN, Professor, Nursing Community College of Allegheny County, on August 11, 2019, who disagreed with RNs administering conscious sedation for any procedure regardless of who orders the sedation. Paula M. Susi opined that except for ICU patients on full ventilatory support, only certified RN anesthetists should administer and monitor all levels of sedation.

At the December 5, 2019, meeting, the Board discussed the pre-draft comments with representatives from PCNP and PAMED. The Board noted that PCNP requested the Board to amend § 21.413(d) on December 28, 2018. The Board explained, as indicated previously, that the proposed change is consistent with DOH regulations and is also consistent with CRNP scope of practice and education requirements. Like all other health care services

provided by CRNPs, the collaborative agreement and the prescriptive authority collaborative agreement must outline the details of the collaboration between the CRNP and the collaborating physician. To address PAMED's concern, however, the Board added the qualifier "within the terms of the collaborative agreement," to § 21.413(d). As for whether the physician or CRNP who ordered the service is required to be present when the order is carried out by an RN, the Board discussed that that is not required. The only requirement is that a physician or CRNP be present when the service is provided. The Board also noted that section 2(1) of the RN Law (63 P.S. § 212(1)) authorizes RNs to execute medical regimens executed by licensed physicians. Similarly, sections 8.2 and 8.3 of the RN Law authorize CRNPs to prescribe medical therapeutic or corrective measures and issue orders to be executed by others.

Following discussion, the representative on behalf of PAMED acknowledged that the Board's modification clarified PAMED's questions. The Board voted to proceed with promulgation of this statement of policy at that meeting.

*Fiscal Impact and Paperwork Requirements*

This statement of policy will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

*Comments*

Under § 21.401(e), the Board will entertain public comment for 60 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Interested persons are invited to submit written comments, recommendations or objections regarding the proposed amendment to Judith Pachter Schuler, Counsel, State Board of Nursing, P.O. Box 2649, Harrisburg, PA 17105-2649, or RA-STRegulatoryCounsel@pa.gov. Reference No. 16A-5144 (Interpretations Regarding the Administration of Drugs—Statement of Policy), when submitting comments.

A hearing on this revision will be held on October 28, 2022, at 10 a.m. The hearing will be held in person and virtually during the Board's regularly scheduled meeting.

Information about the hearing and the meeting will be posted on the Board's web site.

LINDA M. KMETZ, PhD, RN,  
*Chairperson*

**Fiscal Note:** 16A-5144. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 21. STATE BOARD OF NURSING**

**Subchapter D. INTERPRETATIONS**

**STATEMENT OF POLICY**

**§ 21.413. Interpretations regarding the administration of drugs—statement of policy.**

\* \* \* \* \*

(d) As used in this subsection, "conscious sedation" is defined as a minimally depressed level of consciousness in which the patient retains the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands. The registered nurse who is not a certified registered nurse anesthetist may administer intravenous conscious sedation medications, under § 21.14, during minor therapeutic and diagnostic procedures, when the following conditions exist:

(1) The specific amount of intravenous conscious sedation medications has been ordered in writing by a licensed physician **or certified registered nurse practitioner within the terms of the collaborative agreement** and a licensed physician **or certified registered nurse practitioner** is physically present in the room during administration.

\* \* \* \* \*

[Pa.B. Doc. No. 22-972. Filed for public inspection July 1, 2022, 9:00 a.m.]