

Massachusetts Board of Registration in Nursing

Advisory Ruling on Nursing Practice

Title: Enhancing the Disclosure of Unanticipated Outcomes

Advisory Ruling Number: 14-01

Authority:

The Massachusetts Board of Registration in Nursing (Board) is created and authorized by Massachusetts General Laws (M.G.L.) c. 13, ss. 13, 14, 14A, 15 and 15D, and M.G.L. c. 112, ss. 74 through 81C to protect the health, safety, and welfare of the citizens of the Commonwealth through the regulation of nursing practice and education. In addition, M.G.L. c.30A, s. 8 authorizes the Board to make advisory rulings with respect to the applicability to any person, property or state of facts of any statute or regulation enforced or administered by the Board. Each nurse is required to practice in accordance with accepted standards of practice and is responsible and accountable for his or her nursing judgments, actions, and competency. The Board's regulation at 244 CMR 9.03(6) requires all nurses to comply with any other law and regulation related to licensure and practice.

Date Issued: October 9, 2014

Date Revised: February 14, 2018

Scope of Practice:

RN, LPN, Advanced Practice Registered Nurses (APRN)

Purpose:

To promote effective disclosure of unanticipated outcomes to patients and their families by licensed nurses and advanced practice registered nurses when applicable under M.G.L Chapter 233 section 79L, and the policies of the employing facilityⁱ.

Advisory:

M.G.L Chapter 233 section 79L requires a health care provider, facility, or an employee or agent of a health care provider to fully inform the patient and, when appropriate, the patient's family, in situations where a patient suffers an unanticipated outcomeⁱⁱ with significant medical complications resulting from a health care provider'sⁱⁱⁱ mistake.

Research^{iv, v, vi} has demonstrated:

- Patients expect and want timely and full disclosure of the events that led to an unanticipated outcome, including an understanding of what happened, what is being done to prevent its recurrence, an acknowledgement of responsibility, and an expression of sympathy

- Organizations that foster and ensure an environment of open and honest communication among healthcare workers with a blame-free culture of safety that supports and encourages employees to report and disclose medical errors or unanticipated outcomes without fear of punishment or retaliation have better safety reports
- Nurses should be guided by clear, well-defined guidelines that support reporting of all potential and actual errors, including near-misses, as an opportunity to improve patient safety.

Therefore, it is the position of the Board of Registration in Nursing that unanticipated outcome disclosure demonstrates respect for patient autonomy and promotes patient safety through enhanced patient engagement, transparency, and trust.

To gain the knowledge, skills and abilities needed to convey such an event openly, directly, competently, and skillfully, nurses are encouraged to participate in continuing education programs with content on conducting conversations with a patient who suffers an unanticipated outcome, and, as appropriate, the patient's significant others, pursuant to institutional policy in the aftermath of a healthcare provider's mistake.

The nurse in the management role is responsible to ensure that organizational policy development provides for nursing education, defined measures to demonstrate competency, and clear, well-defined guidelines that support reporting of all potential and actual errors. For the purposes of this Advisory Ruling, the nurse in the management role includes all licensed nurses, including advanced practice registered nurses, who practice independently or as the sole nurse within an organization, in addition to those who supervise other nurses.

ⁱ M.G.L Chapter 233 section 79L defines "Facility", as a hospital, clinic, or nursing home licensed under chapter 111, a psychiatric facility licensed under chapter 19 or a home health agency; provided, however, that "facility" shall also include any corporation, professional corporation, partnership, limited liability company, limited liability partnership, authority or other entity comprised of such facilities.

ⁱⁱ M.G.L Chapter 233 section 79L defines "Unanticipated outcome" as the outcome of a medical treatment or procedure, whether or not resulting from an intentional act that differs from an intended result of such medical treatment or procedure.

ⁱⁱⁱ M.G.L Chapter 233 section 79L defines "Health care provider" as any of the following health care professionals licensed under chapter 112: a physician, podiatrist, physical therapist, occupational therapist, dentist, dental hygienist, optometrist, nurse, nurse practitioner, physician assistant, chiropractor, psychologist, independent clinical social worker, speech-language pathologist, audiologist, marriage and family therapist or mental health counselor; provided, however, that "health care provider" shall also include any corporation, professional corporation, partnership, limited liability company, limited liability partnership, authority, or other entity comprised of such health care providers.

iv [Emergency Care Research Institute \(ECRI\)](#) is an independent, nonprofit organization that researches the best approaches to improving the safety, quality, and cost-effectiveness of patient care and is designated an Evidence-Based Practice Center by the U.S. Agency for Healthcare Research and Quality and listed as a federal Patient Safety Organization by the U.S. Department of Health and Human Services.

v [The Joint Commission](#) is an independent, not-for-profit organization that accredits and certifies more than 20,500 health care organizations and programs in the United States. Joint Commission accreditation and certification is recognized nationwide as a symbol of quality that reflects an organization's commitment to meeting certain performance standards and whose mission is to continuously improve health care for the public, in collaboration with other stakeholders, by evaluating health care organizations and inspiring them to excel in providing safe and effective care of the highest quality and value.

vi [Nurses Service Organization \(NSO\)](#) is a for profit organization that provides information and research from both insurance professionals and a panel of experienced nursing professionals related to risk management information for RN's, LPN's, Nurse Practitioners, Clinical Nurse Specialists, as well as many other healthcare professionals; NSO provides information on liability insurance products from which they gain a profit.