

BEFORE THE  
BOARD OF VOCATIONAL NURSING  
AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of:

Medicinal Cannabis Administration by  
Licensed Vocational Nurses in California  
Public Schools

Precedential Decision No. 2021-01

NOTICE OF PRECEDENTIAL DECLARATORY DECISION

This matter came before the Board of Vocational Nursing and Psychiatric Technicians (Board) as Agenda Item 6.E at its regular meeting on November 18, 2021. On motion from the Board's Education and Practice Committee, and after Board discussion and public comment at the meeting, the Board duly adopted the attached Scope of Practice Guidance as a declaratory decision of the Board and designated the decision precedential pursuant to Government Code section 11425.60. The declaratory decision and precedential designation became effective on November 18, 2021.

SIGNATURE ON FILE

Dr. Carel Mountain  
President



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR.  
**Board of Vocational Nursing and Psychiatric Technicians**  
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October 6, 2021

Michael J. Davis, Esq.  
Atkinson, Andelson, Loya, Ruud & Romo  
1050 Northgate Drive, Suite 520  
San Rafael, CA 94903

Re: Medicinal Cannabis Administration by Licensed Vocational Nurses Public Schools

Dear Mr. Davis:

The Board of Vocational Nursing and Psychiatric Technicians (Board) received your request for scope of practice guidance on the administration of medicinal cannabis by a licensed vocational nurse (LVN) in a California public school under the facts and the circumstances specified in the request. The facts and the circumstances surrounding the administration of medicinal cannabis by the LVN specified in the request are as follows:

1. A minor student attends a public school in California. The student has been diagnosed with a severe seizure condition. The student's physician has recommended that the student be administered two cannabis medications to treat the severe seizure condition: a CBD:THC tincture administered as a maintenance medication and a THC intranasal spray administered as a rescue medication upon the onset of a seizure.
2. Due to the severe seizure condition, the student receives special education services from the school. These services are formalized in an individualized educational program (IEP) developed specifically for the student by a multidisciplinary team which includes school administrators, student, parents, and health professionals. As part of the IEP, the multidisciplinary team has determined that the student requires access to nursing services to assist with administration of the recommended medications during the school day.
3. At school, the recommended medications are administered by an LVN under the general direction of a physician or registered professional nurse (RN). The LVN has been trained in and is familiar with the signs and symptoms of the onset of a seizure in the student and the proper administration of the rescue medication. During the school day, a physician or RN is available to the LVN to provide further direction or answer any questions.

4. The school district employing the LVN to care for the student inquires whether, under these circumstances, the LVN would commit professional misconduct subject to disciplinary action by administering medicinal cannabis to the student at the school during school hours pursuant to a physician's order, recommendation, or care plan.

Under these circumstances, the LVN would not commit professional misconduct subject to disciplinary action by administering medicinal cannabis to the student at the school during school hours pursuant to a physician's order, recommendation, or care plan. The Vocational Nursing Practice Act, Business and Professions Code chapter 6.5, sections 2840 et seq., governs the scope of practice for vocational nursing. Business and Professions Code section 2859 defines the practice of vocational nursing as follows:

The practice of vocational nursing within the meaning of [chapter 6.5] is the performance of services requiring those technical, manual skills acquired by means of a course in an accredited school of vocational nursing, or its equivalent, practiced under the direction of a licensed physician or registered professional nurse[.]

Thus, under this code section, the LVN practices only under the direction of a physician or RN. The direction provided by the supervising physician or RN must be sufficient to enable the LVN to safely and efficiently perform those services within the LVN scope of practice. The supervising physician or RN need not be physically present when providing direction to the LVN but must be reasonably available to the LVN while the LVN performs services within the LVN scope of practice.

The Board has, pursuant to its rulemaking authority, promulgated regulations relating to vocational nursing. These regulations, which can be found in Title 16, Division 25 of the California Code of Regulations (CCR), further define the scope of practice for vocational nurses. Specifically, section 2518.5 of these regulations states:

The licensed vocational nurse performs services requiring technical and manual skills which include the following:

- (a) Uses and practices basic assessment (data collection), participates in planning, executes interventions in accordance with the care plan or treatment plan, and contributes to evaluation of individualized interventions related to the care plan or treatment plan.
- (b) Provides direct patient/client care by which the licensee:
  - (1) Performs basic nursing services as defined in subdivision (a);
  - (2) Administers medications;

- (3) Applies communication skills for the purpose of patient/client care and education; and
- (4) Contributes to the development and implementation of a teaching plan related to self-care for the patient/client.

Thus, under this regulation, the LVN scope of practice includes executing interventions in accordance with the care plan or treatment plan for a patient, performing basic nursing services and administering medications. When implementing a care plan or treatment plan, including those incorporated into an IEP, the LVN may only perform those services and execute those technical or manual skills within their scope of practice. A care plan or treatment plan may not expand the scope of practice and the scope of practice remains the same regardless of the healthcare setting in which the LVN provides services.

When ordered by a physician, the LVN may administer medicinal cannabis to a patient in a manner consistent with the order and may administer rescue medication if the order provides specific instructions and the LVN receives specific direction on the circumstances under which the rescue medication is to be administered from a physician or registered professional nurse. The LVN may administer medicinal cannabis to a public school student as part of an IEP if these conditions are met and, provided the medicine is otherwise administered as ordered and directed, the LVN would not commit professional misconduct subject to disciplinary action by administering the medicinal cannabis. In addition, to the extent the LVN performs the act of administering medicinal cannabis to a student as described in the physician's order or care plan, the Board may be precluded from penalizing or taking disciplinary action against the LVN based solely on the act of administering the medication under the provisions of Health and Safety Code section 11362.8.

If you have any further questions, please do not hesitate to contact me.

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Supervising Nursing Education Consultant