

North Dakota Board of Nursing

Practice Guidance

Role of the Nurse in Aesthetic Practices in Retail Settings

Guidance regarding the interpretation and application of the Nurse Practices Act (NPA) may be adopted by the ND Board of Nursing (Board) as a means of providing direction to licensees and stakeholders who seek to ensure safe nursing practice and to address issues of concern relevant to public protection. (*North Dakota Century Code (NDCC) 43-12.1-08(2)(p)*).

Board approved practice guidance does not carry the force and effect of the law/rules. Each licensed nurse (nurse) is “responsible and accountable to practice according to the standards of practice prescribed by the board and the profession”; and must “accept responsibility for judgments, individual nursing actions, competence, decisions, and behavior in the course of nursing practice.” (*Standards of Practice, North Dakota Administrative Code (NDAC) 54-05-01-07 and 54-05-02-04*). “Competence”: means the application and integration of knowledge, skills, ability, and judgment necessary to meet standards. (NDAC 54-01-03-01(16)).

Background/Significance

The Board has received concerns related to unsafe aesthetic practices by nurses for over 25 years. To address public concerns and inconsistencies of aesthetic practice in ND over the past quarter century, the Board has been committed to providing current, relevant, and evidence-based guidance.

Since 1999 the Board has sought input from experts, feedback from stakeholders, and monitored national trends to provide advisory opinions and practice statements to assist ND nurses in their aesthetics professional practice. In 2007, the Board archived the original 1999 practice statement related to aesthetics and adopted a new practice statement developed by the Practice Committee with input from stakeholders. The statement provided needed guidance about the nurse's role and responsibility while working within a health system or a provider-based aesthetics and dermatologic clinic.

A dramatic shift occurred with the specialty of aesthetics in the early 2010s with the Food and Drug Administration (FDA) approval of injectable medications for treatment of facial wrinkles. In late 2017 the Board began receiving an onslaught of complaints and concerns from the public related to nurses' scope of practice and injecting prescribed aesthetics agents with minimal or no prescriber/provider involvement. Research about professional standards, other state nursing board positions, and discussions among the ND Tri-Regulator Collaborative (ND Board of Nursing, ND Board of Pharmacy, and ND Board of Medicine) assisted in the Board addressing the public safety concerns.

January 2018 the Board reviewed the aesthetics practice statement revised in 2014 for currency and relevancy. It was determined that the 2007 statement should be archived due to the dramatic evolution of aesthetic practices over the previous ten years. Seeking to address public concerns, and provide timely and relevant guidance, the Board approved an Interpretive Statement clarifying the law and rules related to the role of the nurse in aesthetic practices in retail settings (i.e. medical offices, clinics, and other business models, which may include, but are not limited to medical spas, independent aesthetic clinics, mobile aesthetic services). Despite providing the updated guidance, concerns and complaints continued to escalate and in April 2019 the Board determined it was necessary to provide more comprehensive guidance.

This practice guidance, drafted in July 2019, and formally approved by the Board in October 2019, has served to guide nurses practicing within the specialty area of aesthetics. This April 2025 review and revision of the guidance reflects current evidence-based research, professional standards, collaboration with state and national boards, and stakeholder input.

Definitions related to this Practice Guidance

- **Dispensing:** the preparation and delivery of a prescription drug, pursuant to a lawful order, in a suitable container appropriately labeled for subsequent administrations to or use by a patient. The Board of Pharmacy provides an exemption to duly licensed practitioners of medicine supplying the practitioner's own patients with such remedies as the practitioner may desire for a patient's immediate needs, etc. NDAC 54-05-03.1-10(5); NDCC 43-15-8; NDCC 43-15-02; NDAC 61-04-02-01.
- **Medication administration:** delivery of medication by a licensed nurse or an individual delegated to and supervised by a licensed nurse, to a client whose use of that medication must be monitored and evaluated applying specialized knowledge, skills, and abilities possessed by a licensed nurse. NDAC 54-01-03-01(45).
- **Nursing:** the performance of acts utilizing specialized knowledge, skills, and abilities for people in a variety of settings (aesthetics practices are considered a setting). Acts may not be deemed to include acts of medical diagnosis or treatment or the practice of medicine as defined in chapter 43-17. NDCC 43-12.1-02(5).
- **Prescriber:** a qualified healthcare professional who is educated, trained, and licensed to perform the services authorized in the treatment plan. This individual must be a Physician, Physician Assistant, or Advanced Practice Registered Nurse (APRN) with Prescriptive Authority.
- **Prescriptive practices:** assessing the need for drugs, immunizing agents, or devices and writing a prescription to be filled by a licensed pharmacist. NDCC 43-12.1-02(6).
- **Prescription:** any order for drugs or medical supplies, if such order is written or signed or transmitted by an individual licensed by law to prescribe and administer such drugs or medical supplies, etc. NDCC 43-15-26.
- **Supervision:** means maintaining accountability to determine whether or not nursing care is adequate and delivered appropriately. Supervision includes the assessment and evaluation of the client's condition and responses to the nursing plan of care and evaluation of the competence of the person providing nursing care.
 - **Condition of supervision:** means the method of supervision as direct or indirect, the identification of the persons to be supervised as well as the nursing interventions being provided, and the stability or predictability, or both, of the client's condition.
 - **Direct supervision:** means that the responsible licensed nurse or licensed practitioner is physically present in the client care area and is available to assess, evaluate, and respond immediately. Direct supervision does not mean that the responsible licensed nurse or licensed practitioner must be in the same room or "looking over the shoulder" of the persons providing nursing care.
 - **Indirect supervision:** means that the responsible licensed nurse or licensed practitioner is available through periodic inspection and evaluation or by telecommunication, or both, for direction, consultation, and collaboration. NDAC 54-01-03-01(78).
- **Telehealth:** is acceptable for physical assessment/evaluation by a prescriber to ensure an established and ongoing relationship between the client and prescriber. NDCC 26.1-36-09.15(1)(g).

Role of the RN and APRN in Aesthetic Practice

1. The Board of Nursing does not have jurisdiction or oversight over independent clinics or retail settings.
2. This practice guidance is not intended to apply to the licensed practical nurse (LPN).
3. The nurse is responsible and accountable to base nursing decisions on nursing knowledge and skills; and participate in nursing practice to the extent of basic nursing education and additional skills acquired through subsequent education and experience.

Comprehensive, specialized, and accredited nursing education related to aesthetics provides evidence of appropriate knowledge, skills, and competencies of the nurse. Facility policies & procedures must include initial and ongoing competencies. NDAC 54-05-02-04(2)-(4); NDAC 54-05-02-05(1), (2), (7), (10), and (12).

The Board acknowledges the following requirements for a nurse to expand scope in the practice of aesthetics:

- a. Successful completion of nursing education and demonstrated competency includes at a minimum: A comprehensive accredited didactic component and a supervised practicum where each procedure is evaluated by a qualified practitioner.
- b. Board recognized comprehensive and specialized education and continuing education programs must be approved or accredited by:
 - i. ND Board of Nursing (or another jurisdiction's state nursing board)
 - ii. Accredited college or university
 - iii. Health care regulatory board, or
 - iv. Professional organization that is nationally accredited to approve continuing education programs; and
- c. National specialty certifications are preferred to ensure accredited nursing education, such as Certified Aesthetic Nurse Specialist (Plastic Surgical Nursing Certification Board), Dermatology Nurse Certified (Dermatology Nursing Certification Board), or other related certifications.

4. The nurse is responsible and accountable to remain within legal scope and standards of practice, which **excludes** medical diagnosing, determining medical treatment, and/or prescribing/dispensing of FDA-approved agents/devices unless the nurse is an APRN with Prescriptive Authority. NDCC 43-12.1-02(5); NDAC 54-05-02-04; NDAC 54-05-02-05; NDAC 54-05-03.1-10; NDAC 61-04-02-01; Board of Pharmacy Administrative Guidelines for Practitioner dispensing in ND.

The Board acknowledges the following related to the role of the nurse in aesthetic practices:

- a. Prior to implementation of any medical treatment the prescriber must establish a prescriber-client relationship by performing an initial, documented history and physical assessment and developing a client-specific plan before implementing any medical treatment. The medical clearance of a client does not meet the requirements of a client-specific plan of care. A change to the treatment plan or initial order (i.e., type of treatment, location of treatment, product changes, dosage changes) requires an additional history and physical assessment to be completed by the prescriber **BEFORE** implementing the new plan of care. This includes ongoing involvement and supervision by the prescriber, verifies an established client-prescriber relationship and prevents the nurse from medically diagnosing, determining need for medical treatment, and prescribing/dispensing. NDAC 54-05-03.1-03.2(1)(a)(b)(c)(e)
- b. The use of telehealth does not exempt the nurse from following the legal scope and standards of practice in ND set forth in ND NPA and NDAC Title 54.
- c. Supervision is the process where the physician or an advanced licensee, such as a PA or NP, monitors and oversees a delegated practitioner during the performance of a procedure. The levels of supervision vary based on the skill and license of the person to whom the procedure is delegated, as well as the difficulty and risks of the procedure. In all instances, the supervising professional must be able to respond immediately to address complications and/or emergencies (American Med Spa Association [AMSPA], 2020).
- d. FDA-approved medical agents/devices require prescriptive authority to initiate, plan, order, prescribe, and dispense.
- e. The RN cannot independently purchase or obtain drugs or equipment to perform aesthetic treatments.
- f. An order from a prescriber to administer aesthetic agents is required before an RN may provide such services.
- g. Determining dosages is an element of prescribing. It is not within the scope of practice of an RN to select a medication, determine a dosage, device, or device setting. NDAC 54-05-03.1-10.
 - i. A general medical clearance for all services provided is not acceptable. Standing orders may be appropriate upon the discretion of the prescriber assessing the patient. Standing orders or protocols are not valid prescriptions without a prescriber-

client relationship. It is unlawful for anyone to administer a prescription drug without a valid prescription. Prescribed orders must include the following:

- A valid prescriber-client relationship;
- An initial and appropriate prescriber assessment for a client-specific plan of care;
- A specific prescriber order individualized for the specific client for the aesthetic agents/treatments; and
- Elements of the prescriber-client relationship must be documented, including the client assessment, diagnosis or condition, therapeutic regimen, and evaluation of treatment. NDAC 54-05-03.1-03.2.

h. Once the treatment is given or being given, the client must be monitored by the nurse or prescriber for adverse reactions to treatment. If there are adverse reactions, those must be documented and communicated to the prescriber. Per AMSPA standards, in all instances, the supervising professional must be able to respond immediately to address complications and/or emergencies.

i. The nurse must maintain standard nursing documentation, including at least the following:

- i. Medical history data;
- ii. Education provided to the client on the prescribed aesthetic agent;
- iii. Witness of signed informed consent completed by the prescriber for the treatment(s);
- iv. Written pre-aesthetic treatment education;
- v. Nursing assessments(which may include vital signs when indicated, and in accordance to facility policy), notes, and prescriber orders;
- vi. Specific treatment(s) performed and client's response to treatment(s);
- vii. Client reaction/tolerance to the treatment(s), and interventions required to mitigate or correct adverse outcomes; and
- viii. Post treatment care instructions, signs and symptoms to seek medical care if an emergency presents itself, and recommended follow-up or when to contact the prescriber.

Contributions from the North Dakota Board of Pharmacy

The ND NPA and NDAC Title 54 do not include compounding. *NDCC 43-15 Pharmacists* govern the act of compounding, the distribution of drugs, and other medical equipment commonly used in aesthetic practices in retail settings. The supply chain is regulated by the Board of Pharmacy, and licensure is required prior to soliciting or conducting business in North Dakota. Many products involved in a traditional model of aesthetic practices in retail settings are considered legend drugs and equipment. A wholesale company must only ship to authorized individuals. Given North Dakota does not license clinics, the prescriber(s) must be the responsible party for receipt and storage of these legend drugs under their control.

All medications must be obtained in compliance with both federal and state laws, which include The Wholesale Drug Distributor Licensing Act, statutes governing the practice of pharmacy, the federal Drug Supply Chain Security Act, and the federal Compounding Quality Act, among others and their implementing regulations. Regulations have been adopted by the state and federal government under these Acts, as applicable.

Additionally, the United States Pharmacopeia (USP) is the recognized standard of care for all forms of compounding and is legally required for compounding in the state of North Dakota. USP chapter 797 sets standards for sterile compounding and applies to all prescribers and personnel who prepare compounded sterile preparations. USP 797 contains a provision for immediate use that would allow circumvention of USP requirements. However, that provision is very limited, and the conditions listed in the chapter need to be met. One of the most relevant conditions is that the preparation involves no more than three (3) different sterile products.

References:

American Med Spa Association. (2020, September). *Guidelines for Non-Invasive Medical Aesthetic Practices (Medical Spas)*. <http://americanmedspa.org>

North Dakota Administrative Code, Chapter 54-01-03. *Definitions*.

North Dakota Administrative Code, Chapter 54-05. *Standards of Practice*.

North Dakota Administrative Code, Chapter 61-04-02. *Physician Exemption*.

North Dakota Century Code, Chapter 26.1-36. *Accident and Health Insurance*.

North Dakota Century Code, Chapter 43-12.1. *Nurse Practices Act*.

North Dakota Century Code, Chapter 43-15. *Pharmacists*.

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