Overview and Legal and Fiscal Impact

The proposed regulations amend the code of ethics for registered nurses and licensed practical nurses, the code of ethics for certified nursing assistants (CNAs) and certified medication technicians (CMTs), and the standards of practice and conduct for electrologists to establish principles for the use of electronic devices and social media and to clarify that specified behaviors are unethical.

The proposed regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:
Board of Nursing: Code of Ethics: COMAR 10.27.19.01 and .02
Board of Nursing – Certified Nursing Assistants: Certified Nursing Assistants/Certified Medication Technicians (CNA/CMT): Code of Ethics: COMAR 10.39.07.01 and .02
Board of Nursing – Electrology Practice Committee: Standards of Practice and Conduct: COMAR 10.53.05.01-.04

Legal Analysis

Summary of Regulations

The proposed regulations amend the code of ethics for registered nurses and licensed practical nurses, the code of ethics for CNAs and CMTs, and the standards of practice and conduct for electrologists to establish principles for the use of electronic devices and social media and to clarify that specified behaviors are unethical.

Proposed regulations 10.27.19.01, 10.39.07.01, and 10.53.05.01 amend the definition sections for the codes of ethics for nurses, CNAs, and CMTs and the standards of practice and conduct for electrologists to define the terms “electronic devices” and “social media”. Regulation 10.27.19.01 is also amended to define the term “client”, which is substituted throughout COMAR 10.27.19.01 and .02 for the former term “patient”.

Proposed regulations 10.27.19.02, 10.39.07.02, and 10.53.05.03 prohibit registered nurses, licensed practical nurses, CNAs, CMTs, and electrologists from using electronic devices and social media to transmit client information on-line and require these professionals to adhere
to specified principles in the use of social media. Registered nurses, licensed practical nurses, CNAs, and CMTs are required to promptly report a breach of confidentiality or privacy of a client. Electronic devices including telephones may not be used to record medical records and take pictures or videos of clients without written client authorization.

Each professional is prohibited from engaging in specified behavior that dishonors the profession including (1) reporting for employment under the influence of alcohol, a controlled dangerous substance, or an illicit drug or submitting a pre-employment sample that is positive for alcohol, a controlled dangerous substance, or an illicit drug or (2) committing an act of moral turpitude, dishonesty, or corruption that affects the health, welfare, or safety of citizens of this State and, if the act is a crime, the Board of Nursing may discipline the individual without a conviction. Registered nurses, licensed practical nurses, CNAs, and CMTs are also prohibited from making a sexual advance toward a coworker, student, employer, client, or client’s family member.

**Legal Issue**

The proposed regulations present no legal issue of concern.

**Statutory Authority and Legislative Intent**

The Department of Health and Mental Hygiene cites §§ 8-205, 8-316(a)(25), 8-6A-05(a)(5), 8-6A-10, and 8-6B-03 of the Health Occupations Article as authority for these regulations. Section 8-205 grants the board general authority to adopt regulations to carry out the provisions of the article relating to the regulation and practice of registered nursing, licensed practical nursing, CNAs, and CMTs. Section 8-316(a)(25) authorizes the board, relating to registered nurses and licensed practical nurses, to deny a license or grant a probationary license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if an applicant or licensee engages in conduct that violates the professional code of ethics. Section 8-6A-05(a)(4) requires the board to adopt regulations establishing standards for the qualification of applicants for certification as nursing assistants or medication technicians, including prohibitions against behavior which may be potentially harmful to patients. Section 8-6A-10 authorizes the board, relating to CNAs and CMTs, to deny a certificate, reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke the certificate of a certificate holder if an applicant or certificate holder engages in conduct which is set forth as grounds for discipline. Section 8-6B-03 requires the board to adopt regulations for licensure of electrologists and for the practice of electrology.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

**Fiscal Analysis**

There is no fiscal impact on State or local agencies.
Agency Estimate of Projected Fiscal Impact

The regulations amend the Code of Ethics for licensed nurses, certified nursing assistants, certified medication technicians, and electrologists. The regulations clarify that privacy violations resulting from the misuse of electronic devices and acts of moral turpitude, dishonesty, or corruption are all violations of the code. Additionally, the regulations substitute current language for obsolete language. The board advises that the regulations have no economic impact on the State because the regulations merely clarify existing practice and, thus, no additional staff or funding is necessary. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses. The Department of Legislative Services concurs.

Contact Information

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