



**WASHINGTON SCHOOLS**  
RISK MANAGEMENT POOL

# **Nursing Standards for Out of State Field Trips**

prepared for WSRMP by:

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School-sponsored trips to a different state or country require a lot of special planning, often including the need to determine how to provide health services to students with medical conditions. Fully understanding this requires a review of the applicable nursing rules and regulations in the state or country being visited so that nursing license and practice laws of that state or country can be met. The following provides a summary of issues that may arise, as well as resources likely to have information to help address these issues. We have also provided a matrix of nursing requirements in states often visited by Washington schools.

### **I. General Guidance on Reciprocity and Nursing Compacts**

The best way to find the information your school needs to comply with the local nursing laws in the state or country your school is visiting is to understand the typical structure of nursing rules and regulations. In the United States, each state and territory has a Nurse Practice Act (NPA) enacted into statutes by the legislatures of the states and territories. Additionally, every state and territory has established a state regulatory agency, often called the board of nursing, which promulgates administrative rules and regulations that clarify the statutes or specify particular statutory guidance.

Generally, each NPA in turn sets up a board of nursing and determines the authority, power, and composition of the Board of Nursing. The Board of Nursing generally oversees the educational minimums, licensing, discipline, and continuing education of licensed nurses. While NPAs typically set the general standards and scope of nursing practice, the Board of Nursing regulations set forth more specific guidelines. This is where the similarities between state nursing regulations generally end.

Each NPA is different and tailored to local concerns. They are dynamic and subject to change. Insofar as your school is relying on information from the NPA, it is important to check the NPA for each visit to ensure nothing has changed from a previous visit.

There is no automatic reciprocity agreement for nurses unless they reside and practice in a Nurse Licensure Compact State. A nurse who resides in any of the states forming a compact state alliance may work in any of the compact states. Similarly, in the District of Columbia, any licensed nurse in good standing from any jurisdiction may obtain a reciprocal license and endorsement upon payment of applicable fees.

Washington is not a member of the nurse licensure compact. Thus, any Washington school nurse who travels with a student out of state will have to consult the NPA in the state where they are going to determine whether they may provide nursing services to a student on a temporary visiting basis, what the scope of the temporary exemption is, whether supplemental license is required, and what, if anything, they may delegate to an aid or another individual for the duration of the trip.

## **I. Delegation and Washington's Laws As-Applied to Out of State Travel**

Like nursing regulations, the limitations on nursing delegation are different in each state. Proper delegation of nursing services to a student in Washington would not necessarily be considered a proper delegation in a neighboring state such as Oregon because Washington nursing and delegation laws do not automatically carry over to another jurisdiction.

States may have specific laws pertaining to delegation in a school setting that are different from delegation in a non-school setting. *See for example*, Utah's R156-31b-701 and R156-31b-701a. For example, Oregon prohibits nurses from delegating the administration of medications intravenously, except in certain limited residential and community-based settings. OAR 851-045-0060(8)(q). A nurse who relies on Washington's authorization to delegate insulin injections in RCW 18.79.260(e)(v) and sends an appropriate adult to accompany a diabetic student to Oregon could be in conflict with Oregon's laws prohibiting this type of delegation and practice. We note a licensed professional who has immunity from civil or criminal penalties for certain kinds of conduct is nevertheless not immune from professional discipline.<sup>1</sup>

Unfortunately, as a practical matter, this means that a Washington student may receive specific services from a school nurse's delegate while he or she is in Washington. Once this student crosses state lines, however, the rules change and the destination state's laws and limitations on delegation apply. A district and its nurse must know the nursing laws and regulations of the state where the students are traveling to be able to practice and provide appropriate services accordingly. If the nurse or aid is traveling to another state, the district should consult with an attorney regarding student-specific services in that state and the nurse should consult with the other state's Board of Nursing for guidance prior to making the travel plans for the student.

If the state's board of nursing prohibits delegation, then the district should arrange for alternative care. The district may consider arranging for the school nurse to accompany the student, hiring a licensed nurse or limited practitioner on a temporary basis in the state where the student will visit, or inviting parents to attend the trip and administer care to their child.

Please note that while a district may invite the parent, a parent's attendance should not be a required condition for a student's participation in the field trip.

<sup>1</sup> Chapter 28A.210.350 RCW states that "[a] school district, school district employee, agent, or parent-designated adult who, acting in good faith and in substantial compliance with the student's individual health plan and the instructions of the student's licensed health care professional, provides assistance or services under RCW 28A.210.330 shall not be liable in any criminal action or for civil damages in his or her individual or marital or governmental or corporate or other capacities as a result of the services provided under RCW 28A.210.330 to students with diabetes. However, *Deatherage v. State Exam. Bd. of Psych*, 134 Wn.2d 131, 140, 948 P.2d 828, 832 (1997) held that disciplining a psychiatrist for his activities as an expert witness was permissible even when he had civil immunity for his testimony. Several courts have found the threat of professional discipline is an appropriate check on individuals who are otherwise immune from civil liability.

## II. Nursing Services During Transportation

If the travel involves ground transportation, then the shift from Washington law to another state's laws occurs at the state line. If the travel involves flight, the issue becomes less clear. When the students leave Washington, Washington law applies. When the students' flight touches down in another state, that state's laws applies. During the flight, there is a wide range of potential overlap and liability issues that warrant consideration. As a preliminary matter, flying can be stressful. There is a potential for a student with a disability or health condition to become ill during or after the flight due to these stresses. In the case of a medically fragile student, the student may need to obtain a medical certificate from his or her doctor prior to boarding a flight. 14 C.F.R. § 382.23. In the case of students who require specific medical equipment or devices, such as diabetes-related supplies, prescription medication, or ostomy scissors, the student should obtain a Notification Card from the Transportation Security Administration (TSA) to prevent difficulties boarding a flight. When traveling in the air, it is unclear what laws for medical treatment, nursing services, and delegation apply because there is no clear legal authority on this matter. However, given the absence of case law and licensing disputes on this topic, we recommend that services be rendered consistent with the student's individualized health plan, according to his or her needs, and within the scope of the nurse practice or delegate's training.

## III. Application of the Matrix

In an effort to assist Washington's school districts, we have prepared the attached matrix. It sets forth a list of states and territories where students may be more likely to travel for school purposes. As noted above, the standards or requirements listed in this matrix are not definitive because NPAs are subject to change. Before traveling to any other state, each school should confer with counsel and examine the travel state's requirements and limitations to ensure current compliance. This table is intended as a starting reference regarding state laws as of January 2016, and serves only as a beginning point for further review and research. We recommend that districts confer with counsel if questions arise in this context.

For travel to states that are not included on the matrix, information can typically be found by looking up that state's NPA for specific limitations or exemptions from licensing requirements. In addition to the NPA, each state's Board of Nursing will have regulations explaining or elaborating on the statutory framework. Most states' nursing boards have a website that provides useful guidance. On these websites, some states will have additional administrative guidance published by its nursing board and other states will have a phone number and contact information. Often, a nursing board will be able to provide basic information on the state's regulations in an advisory manner.

If the school has planned a field trip to a school district or jurisdiction that is not on the matrix, the school should confer with counsel to determine the specific contents of that jurisdiction's

NPA and to obtain guidance on what the limits of the school nurse's practice is in that jurisdiction and whether a designated individual may conduct basic delegated tasks. As mentioned above, these requirements vary from state to state. Many jurisdictions have a temporary exception for nurses who are visiting from out of state to accompany a patient travelling to or through that state. Even those states that have this exception often have specific details and limitations for this temporary travel limitation. For example, Florida law allows a nurse from another jurisdiction to accompany and care for a patient temporarily residing in Florida for not more than 30 consecutive days; but the Board of Nursing *must* be notified prior to arrival of the patient and nurse, the nurse must have standing physician orders and current medical status of the patient available, and the nurse must prearrange with licensed health care providers in Florida in case the patient needs inpatient treatment. Fla. Stat. § 464.02(13). Colorado requires an out of state nurse accompanying a patient to obtain a special temporary permit to practice nursing for \$43. 3 CCR 716-1 (6.1).

These examples illustrate the specific nature of differences in state laws, and the potential challenges that districts face when students travel out of state for school activities. Advance preparation and a review of available resources, however, will help districts address these issues.

*Disclaimer: this memorandum is intended for informational purposes only and may not reflect the most current legal developments. It is not intended as legal advice. Please seek the advice of an attorney before acting or relying on any information contained within this document.*