

## Department of Health Nursing Care Quality Assurance Commission

# Advisory Opinion

The Nursing Care Quality Assurance Commission (NCQAC) issues this advisory opinion in accordance with WAC 246-840-800. An advisory opinion adopted by the NCQAC is an official opinion about safe nursing practice. The opinion is not legally binding and does not have the force and effect of a duly promulgated regulation or a declaratory ruling by the NCQAC. Institutional policies may restrict practice further in their setting and/or require additional expectations to assure the safety of their patient and/or decrease risk.

<i>Title:</i>	Role of the Nurse in Supervised Injection Services (SIS) Facilities	<i>Number:</i> NCAO 19.00
<i>References:</i>	<ul style="list-style-type: none"> <li>• <a href="#">Chapter 18.79 RCW Nursing Care</a></li> <li>• <a href="#">WAC 246-840 Practical and Registered Nursing</a></li> <li>• <a href="#">Chapter 49.19 RCW Safety-Health Care Settings</a></li> <li>• <a href="#">Chapter 49.17 RCW Washington Industrial Safety and Health Act (WISHA)</a></li> <li>• <a href="#">Chapter 296-62 WAC General Occupational Health Standards</a></li> <li>• <a href="#">Chapter 246-887 WAC Pharmacy-Regulations Implementing the Uniformed Controlled Substance Act</a></li> <li>• <a href="#">Chapter 69.41 RCW Legend Drugs-Prescription Drugs</a></li> </ul>	
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<i>Supersedes:</i>	Not Applicable	
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### Conclusion Statement

The Nursing Care Quality Assurance Commission (NCQAC) concludes that it is within the scope of practice of the registered nurse and licensed practical nurse to provide nursing care in a supervised injection services (SIS) facility within their legal scope of practice. The NCQAC recommends nurses follow the [Registered Nurses' Association of Ontario Implementing Supervised Injection Services Best Practice Guidelines](#), recognizing that some information or practices specific to Canadian statutes, regulations, or policies may not be applicable in the U.S. or the state of Washington. The nurse must be aware of potential legal challenges related to participating in SIS. The NCQAC cannot provide legal advice.

### Background

The Washington State Nursing Care Quality Assurance Commission (NCQAC) received a formal request from the Washington State Nurses Association (WSNA) requesting the commission develop an advisory opinion to clarify the nursing scope of practice when participating in SIS and advise nurses of potential legal challenges to providing nursing services in those circumstances.

There are more than 90 SIS sites worldwide in nine countries (Switzerland, Germany, the Netherlands, Norway, Luxembourg, Spain, Denmark, Australia, and Canada). The first North American SIS facility opened in Vancouver, Canada in 2003. Supervised injection services have been shown to be effective, beneficial, cost-efficient, and safer for people who use drugs. They are effective in preventing diseases, overdose, and death. They are also effective in reducing drug use and increasing uptake in addiction treatment. Supervised injection services are beneficial because they allow nurses to meet people where they are at while eliminating barriers to health care and achieving greater level of health overall. Supervised injection services also decrease public safety problems from injecting in public locations and discarding equipment in unsafe locations.

People come to a SIS facility with their own obtained substances to inject under supervision. They also come to SIS sites to access a range of services including harm reduction education, immunization, point of care HIV testing, sexually transmitted disease screening, counseling, wound care, and other services. In a typical SIS facility, people inject their drug in the presence of a nurse. They can access clean supplies, take their time to inject, ask questions, and receive immediate care if they show signs of overdose or anaphylaxis. They are provided an opportunity to connect with peer workers and/or other members of the team for additional care.

No such facilities currently exist in the United States. The [Drug Policy Alliance](#) is advocating for SIS pilot programs in San Francisco and New York City. Correctional facilities are considering whether these sites should be in their settings. The Canadian Nurses Association, [Focus on Harm Reduction for Injection Drug Use in Canadian Prisons](#), discusses harm reduction strategies in prisons, including SIS and needle sharing. SIS facilities have been endorsed by the [American Medical Association](#), [American Public Health Association](#), and the [Infectious Disease Society](#), [HIV Medical Association](#), and [Pediatric Infectious Disease Society](#).

The Registered Nurses Association of British Columbia (RNABC) was asked, “Is providing clients with evidence-based information to safely give themselves intravenous injections within the scope of registered nursing practice? RNABC, now called the College of Registered Nurses of British Columbia (CRNBC), stated that:

“Assessing clients’ knowledge and skill to safely give themselves intravenous injections is within the scope for nursing practice. Teaching and promoting evidence-based self-care activities prevents illness and promotes health, especially in relation to high risk client behaviors. Providing this information fosters the therapeutic alliance between the registered nurses and the clients and can facilitate promoting healthier client activities . . . . Employers have an obligation to provide essential support systems so that registered nurses are able to meet the standards for Nursing Practice in British Columbia. The essential support systems include the necessary policies and resources to assist nurses to provide competent, evidence-based and ethical care (M. Aldersberg, RNABC, personal communication to M. Davis, Dr. Peter Centre, February 19, 2002, and reconfirmed by CRNBC in 2007).

The Canadian Nurses Association and the Canadian Association of Nurses in HIV/AIDS CARE (CANAC) and Harm Reduction Nurses Association (NRNA) issued a [Joint Position Statement: Harm Reduction and Substance Abuse \(March 2018\)](#) supporting using harm reduction strategies.

## **Laws and Rules – Legal Challenges**

In 2017, King County, Washington took steps to allow two SIS sites that remain involved in controversy and legal challenges. Other cities have proposed them, including Philadelphia, Baltimore, and San Francisco. In February 2019, the federal Justice Department filed a lawsuit to prevent a nonprofit in Philadelphia from moving forward with plans for SIS sites, saying these facilities are illegal under federal law. Philadelphia continues to plan to open the first supervised injection site in the United States. In October, 2019, the United States District Court ruled that the nonprofit’s plan to allow people to bring in their own drugs and use them in a medical facility to help combat fatal overdoses does not violate federal law: [U.S. District Court Memorandum on Safehouse \(October 2, 2019\)](#). Institutions are conducting “mock” supervised injection services sites to raise awareness.

Nurses must understand the legal questions and challenges they may be faced with when providing nursing services within a SIS facility. Notwithstanding the recent U.S. District Court decision referenced above (which may be appealed), that concluded that a nonprofit providing SIS did not violate section 856(a)(2) of the Controlled Substances Act (colloquially known as the “Crack House” statute), opponents of harm reduction practices could invoke federal and state narcotics laws to shut down SIS facilities. A SIS site might be subject to police interference, clients could be arrested for drug possession, and staff members might fear arrest or discipline by professional licensing authorities. For those reasons, it is unlikely that a SIS facility would be established before these questions were resolved to some degree, and state and local authorities were able to provide some assurance to participants. State legislation authorizing politically controversial harm reduction interventions, such as syringe example programs, is not unprecedented. Depending on federal policy decisions, federal law enforcement may view the establishment of local SIS facilities as a direct challenge to national drug laws, triggering legal and political conflict. State laws and rules do not require malpractice coverage. Nurses working in SIS sites may not be eligible for coverage through their insurer. The NCQAC does not have authority over malpractice coverage.

## **Professional Nursing and Ethical Challenges**

Nurses in any practice setting may encounter ethical concerns associated with illegal drug use. They may find themselves caught between evidence, ethics, and the law. SIS has come under attack from the public, politicians, and healthcare professionals. Nurses are not required to provide SIS and may decline to become involved based on their own conscience and ethical decisions. In today’s uncertain political climate, the NCQAC cannot guarantee that a decision to participate will not result in legal consequences. Each nurse must make their own choice whether to not to participate, based on their own analysis of legal risk.

## **Role of the Nurse**

The type of nursing care provided in a SIS facility is within the scope of practice of a Washington-licensed RN or LPN. In these sites, nurses usually act as the client’s first point of contact with the health care system. They work directly with individuals using harm reduction strategies by establishing rapport, assessing level of knowledge and understanding of potential harms associated with injection drug use, providing education, preventing risky injection practices, monitoring for signs of drug overdose or anaphylaxis, and intervening in emergency situations. Nurses may make referrals based on

nursing assessment (such as addiction services, housing, food, income assistance, etc.) and support clients in accessing primary care services. SIS facilities may also include medication-assisted treatment (MAT) programs using nurse care managers.

It is not within the scope of practice of a registered nurse or licensed practical nurse to administer Schedule I controlled substances or illegal substances brought into the SIS facility. The RN or LPN may administer Schedule II-IV controlled substances and legend drugs with a valid prescription under the direction of an authorized health care practitioner.

## Recommendations

The NCQAC recognizes U.S. nursing associations have not yet developed SIS standards of practice guidelines. The NCQAC recommends nurses follow the [Registered Nurses' Association of Ontario Supervised Injection Services Best Practice Guidelines](#), recognizing that some information or practices are specific to Canadian law or policies. Key considerations include:

- Engineering and work practice controls as required by the [United States Occupational Safety and Health Administration \(OSHA\)](#), [Chapter 49.17 RCW Washington Industrial Safety and Health Act \(WISHA\)](#), and [Chapter 296-62 WAC General Occupational Health Standards](#), and other relevant laws and rules;
- Engineering and work practice controls relevant to workplace violence plan as required by [Chapter 49.19 RCW Safety-Health Care Settings](#) including developing a workplace violence plan, mandatory prevention training, and security;
- Storage and handling of legend drugs/controlled substances as required by [Chapter 246-887 WAC Pharmacy-Regulations Implementing the Uniformed Controlled Substance Act](#), [Chapter 69.41 RCW Legend Drugs-Prescription Drugs](#), [Drug Enforcement Administration \(DEA\)](#), and other relevant laws and rules;
- Processes for verification of prescriptions, including using the [Prescription Monitoring Program \(PMP\)](#) for controlled substances, to address administration of medications or prescriptions brought in by the client for a nurse to administer depending on what types of services the SIS site provides;
- Medical emergencies including staff training and competencies;
- Staffing plan including nurses, other health care professionals, and assistive personnel considering what type of services the SIS site provides; and
- [Standing Orders](#) for condition-specific health care needs such as health screening activities, treatment of common health problems, emergency care, screening, and urgent care needs. Examples may include immunizations, sexually transmitted infection (STI) screening and treatment, tuberculosis (TB) screening and treatment, pregnancy screening, birth control, wound care, mental health and substance use disorder screening tools, etc.

The NCQAC recommends that nurses working in these facilities consult with their legal advisors about the potential legal ramifications.

## Conclusion

The ethical and legal debate continues about SIS facilities. The purpose of this advisory opinion is to clarify that while it is within the nurse's scope of practice to provide nursing care related to harm reduction strategies, the NCQAC cannot provide legal advice.

## References

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U.S. Department of Labor Occupational Safety and Health Administration (OSHA): <https://www.osha.gov/>

Registered Nurses Association of Ontario (February 2018) – Implementing Supervised Injection Services Best Practice Guidelines: [https://rnao.ca/sites/rnao-ca/files/bpg/Implementing\\_supervised\\_injection\\_services.pdf](https://rnao.ca/sites/rnao-ca/files/bpg/Implementing_supervised_injection_services.pdf)

Drug Enforcement Agency – Use of Telemedicine while Providing Medication Assisted Treatment: <https://www.hhs.gov/opioids/sites/default/files/2018-09/hhs-telemedicine-dea-final-508compliant.pdf>

HR 6353 – Ryan Haight Online Pharmacy Consumer Protection Act of 2008: <https://www.congress.gov/bill/110th-congress/house-bill/6353/text>

Title 21 U.S.C. Controlled Substances Act: <https://www.deadiversion.usdoj.gov/21cfr/21usc/829.htm>

Substance Abuse and Mental Health Services Administration – Medication Assisted Treatment: <https://www.samhsa.gov/medication-assisted-treatment/statutes-regulations-guidelines>