

244 CMR 3.00: REGISTERED NURSE AND LICENSED PRACTICAL NURSE

Section

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3.01: Designation – Registered Nurse

Registered Nurse is the designation given to an individual who is licensed to practice professional nursing, holds ultimate responsibility for direct and indirect nursing care, is a graduate of a Board approved school for professional nursing, and is currently licensed as a Registered Nurse pursuant to M.G.L. c. 112. Included in such responsibility is providing nursing care, health maintenance, teaching, counseling, planning and restoration for optimal functioning and comfort, of those they serve.

3.02: Responsibilities and Function – Registered Nurse

(1) A registered nurse shall bear full and ultimate responsibility for the quality of nursing care he or she provides to individuals and groups. Included in such responsibility is health maintenance, teaching, counseling, collaborative planning and restoration of optimal functioning and comfort or for the dignified death of those they serve. A registered nurse, within the parameters of his or her generic and continuing education and experience, may delegate nursing activities to unlicensed persons in accordance with 244 CMR 3.05:

(2) A registered nurse shall act, within his or her generic and continuing education and experience to:

- (a) systematically assess health status of individuals and groups and record the related health data;
- (b) analyze and interpret said recorded data; and make informed judgments there from as to the specific problems and elements of nursing care mandated by a particular situation;
- (c) plan and implement nursing intervention which includes all appropriate elements of nursing care, prescribed medical or other therapeutic regimens mandated by the particular situation, scientific principles, recent advancements and current knowledge in the field;
- (d) provide and coordinate health teaching required by individuals, families and groups so as to maintain the optimal possible level of health;
- (e) evaluate outcomes of nursing intervention, and initiate change when appropriate;
- (f) collaborate, communicate and cooperate as appropriate with other health care providers to ensure quality and continuity of care; and
- (g) serve as patient advocate, within the limits of the law.

3.03: Designation – Practical Nurse

Licensed practical nurse is the designation given to an individual who is a graduate of a Board approved practical nursing program, and who is currently licensed as a practical nurse pursuant to M.G.L. c. 112. The licensed practical nurse functions within the framework specified by the nursing statutes and regulations of the Commonwealth.

3.04: Responsibilities and Functions – Practical Nurse

(1) A licensed practical nurse bears full responsibility for the quality of health care she or he provides to patients or health care consumers. A licensed practical nurse within the parameters of his or her generic and continuing education and experience, may delegate nursing activities to unlicensed persons in accordance with 244 CMR 3.05.

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- (2) A licensed practical nurse participates in direct and indirect nursing care, health maintenance, teaching, counseling, collaborative planning and rehabilitation, to the extent of his or her generic and continuing education and experience in order to:
- (a) assess an individual's basic health status, records and related health data;
 - (b) participate in analyzing and interpreting said recorded data, and making informed judgments as to the specific elements of nursing care mandated by a particular situation;
 - (c) participate in planning and implementing nursing intervention, including appropriate health care components in nursing care plans that take account of the most recent advancements and current knowledge in the field;
 - (d) incorporate the prescribed medical regimen into the nursing plan of care;
 - (e) participate in the health teaching required by the individual and family so as to maintain an optimal level of health care;
 - (f) when appropriate, evaluate outcomes of basic nursing intervention and initiate or encourage change in plans of care; and
 - (g) collaborate, cooperate and communicate with other health care providers to ensure quality and continuity of care.

3.05: Delegation and Supervision of Selected Nursing Activities by Licensed Nurses to Unlicensed Persons

The licensed nurse is responsible for engaging in the practice of nursing in accordance with the nurse's scope of practice as defined at M.G.L. c. 112 § 80B, and 244 CMR: *Board of Registration in Nursing* within the limits of the nurse's educational preparation, subsequent acquired education, experience and demonstrated competence. Nursing assessment and analysis of the nursing needs of a patient, development of the nursing plan of care, implementation of the plan, and evaluation of the plan are essential components of nursing practice and are the functions of the licensed nurse. The full utilization of the services of a licensed nurse may permit him or her to delegate selected nursing activities to unlicensed persons. Although unlicensed persons may be used to complement the licensed nurse in the performance of nursing functions, such persons cannot be used as a substitute for the licensed nurse. The following sections govern the licensed nurse in delegating and supervising nursing activities to unlicensed persons.

- (1) Definitions. Definitions for terms used in 244 CMR 3.05 and throughout 244 CMR are set forth in 244 CMR 10.00: *Definitions and Severability.*
- (2) General Criteria for Delegation. Regardless of setting, the licensed nurse who delegates nursing activities to unlicensed persons must comply with the following requirements:
 - (a) The delegating nurse is directly responsible for the nature and quality of nursing care rendered under his or her direction. However, in the event the qualified unlicensed person deviates from the instruction, nursing plan of care or other delegating nurse directive, the delegating nurse does not bear responsibility and accountability for the outcome of the delegated activity performed by the unlicensed person.
 - (b) The final decision as to what can be safely delegated in any specific situation is within the scope of the delegating nurse's judgment.
 - (c) Prior to delegating the nursing activity, the delegating nurse must make an assessment of the patient's nursing care needs and care delivery setting to ensure it can be safely delegated to the unlicensed person.
 - (d) The nursing activity to be delegated must be one that a reasonable and prudent nurse would determine to be delegable within the scope of nursing judgment; would not require the unlicensed person to systematically assess, analyze, interpret, plan and/or evaluate patient data. The delegated activity must be one that can be properly performed by the unlicensed person without jeopardizing the patient's safety and welfare.
 - (e) Said delegation must occur within the job description of the unlicensed person, and the employing agency's policies and procedures in compliance with 244 CMR 3.05(4) and (5). Such employer policies and procedures must include acknowledgement that the final decision to delegate is made by the delegating nurse only. Employer policy or contractual language can not mandate the licensed nurse to delegate, nor mandate any components of the delegation process.

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(f) The unlicensed person must have on file within the employing agency current documentation of the unlicensed person's competencies for the proper performance of each of the nursing activities identified within the unlicensed person's job description. Such documentation must demonstrate that the unlicensed person's competence for each nursing activity has been periodically validated; and that an administratively designated nurse has communicated the unlicensed person's job functions and competencies to the licensed nurse(s) who will be delegating activities to the unlicensed person. Uniform training and certification may be used as a basis to presume the baseline competencies of an unlicensed person.

(g) In addition to the unlicensed person's competence to perform selected nursing activities, other competencies to be considered include, but are not limited to, the unlicensed person's ability to effectively collaborate, communicate and cooperate, as appropriate, with other health care providers and with the patient.

(h) The delegating nurse must provide the unlicensed person with a nursing plan of care that includes, but is not limited to, the desired effect of the activity, the sequence of steps to perform the activity, adverse side effects to be reported to the appropriate licensed nurse, and the need to report to the licensed nurse those activities that do not produce the desired effect.

(i) The delegating nurse must adequately supervise the performance of the delegated nursing activity in accordance with the requirements of supervision as found in 244 CMR 3.05(3).

(j) The delegating nurse can determine at any time that the nursing activity can no longer be delegated based on a change in the health status of the patient, in the unlicensed person's performance of the activity, or other reason the delegating nurse determines may jeopardize patient health or safety.

(3) Supervision. The delegating nurse must provide adequate supervision of all nursing activities delegated to unlicensed persons. The degree of supervision required is determined by the delegating nurse after an evaluation of appropriate factors involved including, but not limited to:

- (a) the stable and predictable nature of the patient's condition;
- (b) the training, capability and initial and continued demonstrated competency of the unlicensed person to perform the activity;
- (c) the complexity of the nursing activity being delegated;
- (d) the proximity and availability of a licensed nurse to the unlicensed person when performing the nursing activity, which may include the use of telephonic or other telecommunication device(s); and
- (e) the availability and accessibility of other employed health care personnel, resources and written employer policies and procedures. Such policies and procedures must, at a minimum, describe established channels of communication and include a system for reporting and responding to a deviation from the nursing plan of care by the qualified unlicensed person.

(4) Delegation of Nursing Activities. By way of example, and not in limitation, the following nursing activities are usually considered within the scope of nursing practice to be delegable, and may be delegated provided the delegation is in compliance with 244 CMR 3.05(2):

- (a) Activities that meet one or more of the following criteria:
 - 1. can be performed according to an established sequence of steps leading to a predictable outcome;
 - 2. do not require nursing assessment and judgment during implementation; or
 - 3. do not involve modification;
- (b) The collecting, reporting, and documentation of simple data;
- (c) Activities which meet or assist the patient in meeting basic human needs including, but not limited to: nutrition, hydration, mobility, comfort, elimination, socialization, rest and hygiene;

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1. The unlicensed person must have initial and periodically validated competencies specific to the administration of medication on file within the employing agency, and an administratively designated nurse must communicate this information to the delegating nurse who will be delegating and supervising the unlicensed person;
2. The patient must have a current and valid medication order issued by a duly authorized prescriber for each medication to be administered by the unlicensed person;
3. The patient must have properly labeled prescribed medication consistent with the prescriber's valid medication order
4. The delegating nurse will, at regular intervals, assess the patient to monitor the patient's progress and the effect of the medication on the patient;
5. The delegating nurse will review the patient's medication records at regular intervals including, but not limited to, the unlicensed person's medication administration documentation practices pursuant to the employer agency's policies and procedures;
6. The nursing plan of care must include, but is not limited to, the desired effect of the medication; the medication's correct dose, route and frequency of administration; adverse side effects to be reported to a licensed nurse; and the need to report to the licensed nurse those medications that produce no results or missed doses as reported by the patient; and
7. Prior to delegating the administration of medication to an unlicensed person, the delegating nurse must:
 - a. verify that nursing personnel, resources and channels of communication are readily accessible to the unlicensed person in the event the delegating nurse is unavailable to provide consultation on request from the unlicensed person;
 - b. verify there are instructions for unlicensed persons to follow when there is a medical emergency related to medication administration; and
 - c. provide instructions for the safe storage of medications.

(5) Nursing Activities That May Not Be Delegated. By way of example, and not in limitation, the following are nursing activities that are not within the scope of sound nursing judgment to delegate:

- (a) Activities that meet one or more of the following criteria:
 1. require nursing assessment, analysis, planning and evaluation of patient data leading to a clinical conclusion during implementation;
 2. may lead to an unpredictable outcome; or
 3. involve anticipated modification.
- (b) Physical, psychological, and social assessment which requires nursing assessment, analysis, planning and evaluation of patient data leading to a clinical conclusion, intervention, referral and/or follow-up;
- (c) Formulation of the nursing plan of care or evaluation of the patient's response to the care provided, or both; and
- (d) Administration of medications except as permitted in M.G.L. 94C, and 105 CMR 700.000: *Implementation of M.G.L. c. 94C*. In addition to complying with 244 CMR 3.05(2)(a) through (j) and (3)(a) through (e), and, when the licensed nurse is employed as a School Nurse, 105 CMR 210.000: *The Administration of Prescription Medications in Public and Private School*, the delegation of medication to an unlicensed person must also comply with the following requirements.

(6) Patient/Client Health Teaching and Health Counseling. It is the responsibility of the licensed nurse to promote patient education and to involve the patient and, when appropriate, other individuals in the establishment and implementation of health goals. While an unlicensed person may provide information to the patient, the ultimate responsibility for health teaching and health counseling must reside with the licensed nurse as it relates to nursing and nursing services.

REGULATORY AUTHORITY

244 CMR 3.00: M.G.L. c. 112, § 80B.