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### **Statement of Intent:**

These guidelines are not intended to be construed or to serve as a standard of nursing care.

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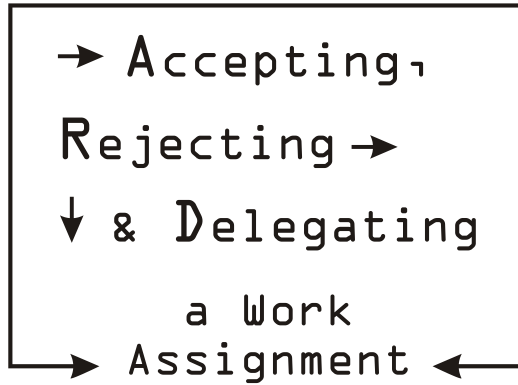
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*A Guide for Nurses*

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## **The Guide's purpose is to:**

- Support the decision-making ability, responsibility, and accountability of the nurse in defining and determining his or her individual scope of practice.
- Improve understanding of the Nurse Practice Act (NPA) and applicable state regulations among staff nurses, nurse managers, nurse executives, educators, and employers of nurses as it relates to accepting, rejecting or delegating a work assignment.
- Provide a framework for the nurse's decision to accept, negotiate, or reject a work assignment and to delegate nursing acts.
- Outline a process for evaluating the appropriateness of a work assignment and the delegation of a nursing task.

## **Statement of Problem**

The practice of nursing is dynamic. It is continuously evolving in response to the changing needs, demands, and resources of our society. Clarifying the responsibilities of the licensed nurse (registered nurse and licensed practical nurse) is sometimes a challenge for nurses and for their employers.

*Accepting, Rejecting and Delegating a Work Assignment: A Guide for Nurses* addresses the questions and concerns of Massachusetts nurses regarding decision-making related to work assignments and the delegation of nursing acts. The Guide was developed collaboratively by the Task Force on Accepting and/or Rejecting an Assignment and the Congress on Nursing Practice and is modeled after the document prepared by the Maryland State Nurses Association.

The Guide for nurses is based on the premise that each nurse is responsible and accountable for making decisions and for practic-

ing in accordance with the Massachusetts Board of Registration in Nursing (BORN), Nurse Practice Act (NPA) regulations, and with the nurse's educational background, competencies and experience. Although the Guide is not legally binding, it is consistent with nursing practices set forth in the NPA.

The Guide contains a brief review of Massachusetts regulations (definitions are in the glossary) concerning nursing practice standards, and the delegation of nursing. Citations to specific sections of the NPA are given where appropriate. A glossary is provided for the reader. Readers are encouraged to refer to the glossary as needed in using the Guide.

## **Legal Considerations**

### **Nurse Practice Act (NPA)**

The purpose of the NPA is to protect the public by assuring safe and competent nurses. Only licensed nurses have the legal, formal authority to practice nursing and to delegate nursing care. The NPA defines nursing practice and is the legal foundation for the practice of nursing in Massachusetts. There are clarifying definitions for the practice of registered nurses and the practice of licensed practical nurses issued in the form of regulation and promulgated by the Massachusetts Board of Registration in Nursing. These definitions are written in broad language that allows for evolving changes in nursing practice. It is important that each nurse understand the legal definition of the practice of nursing since it forms the basis for individual nursing practice in the Commonwealth of Massachusetts.

When a license is issued, the nurse accepts the responsibility and accountability to be a safe, competent practitioner. The nurse must have a clear understanding of his/her own competencies and communicate them to co-workers and supervisors.

The authority of the NPA is specific to the practice of the individual nurse (Mass General Law [MGL] and Chapter 112 §74-81C). The NPA authorizes the Board to regulate nursing practice and education (MGL) but does not extend that authority to employment practices, staffing patterns, or employer/employee issues.

## **Regulations-Code of Massachusetts Regulations (CMR)**

Specifics related to the legal practice of nursing are determined by the Massachusetts BORN and communicated through regulations and advisory rulings. Regulations explain the law and provide a process for implementation. Regulations hold the force of law. Nurses must be familiar and comply with all of the regulations promulgated by the Board. There are several regulations that are specific to nursing practice and provide guidance when accepting, rejecting and delegating a work assignment.

## **Standards of Practice (244 CMR 2:02 9:02) (Board of Registration in Nursing)**

The Standards of Practice describe nursing competence as:

- Understanding policies and procedures of the employing institution.
- Assuring that delegation of a nursing act to a licensed or unlicensed person can be done safely.
- Remaining knowledgeable about current nursing procedures.
- Obtaining the necessary training before accepting a nursing responsibility that one does not have the knowledge to implement.

## **Delegation of Nursing Functions**

The Massachusetts BORN regulation governing Delegation of Nursing Functions (244 CMR: 3.05) gives nurses the authority to delegate certain nursing activities to unlicensed individuals. However, the regulations specify that the nurse will determine the degree of oversight required after an evaluation of appropriate factors [244 CMR: 3.05(3)] and the activities to be delegated [244 CMR: 3.05(4)]. The delegating registered nurse shall bear full and ultimate responsibility for delegation of nursing practice activities [244 CMR: 3.02]. Working beyond competencies or failure to maintain generally accepted standards of practice places the nurse at risk for disciplinary action by the Board. The Board is authorized to take action against nurses who fail to perform in a manner that ensures safe nursing practice [MGL Chapter 112, § 61]. Behavior and activities that could be the basis of disciplinary action by the Board include but are not limited to:

- Practicing beyond the scope permitted by the NPA [244 CMR: 9.00].
- Accepting a work assignment that the nurse is not competent to perform and/or failing to perform it competently.
- Failing to exercise oversight over individuals to whom the nurse has delegated nursing functions [244 CMR: 3.05(3)].
- Abandoning or neglecting a patient. [244 CMR: 9.03(15)].
- Failure to report patient abuse, practice of nursing while impaired by substance abuse, and diversion of controlled substances by licensed nurse [244 CMR: 9.03(26)].

Following an investigation of a complaint against a nurse's practice, the Board is empowered to take action (see glossary for BORN definition of complaints).

Each disciplinary action is reported to the National Council of State Boards of Nursing where it is available for review by regulation to all member boards; such listings are also sent to employers of nurses in the Commonwealth of Massachusetts.

## **Advisory Rulings**

The Board issues advisory rulings and opinions to define or clarify the scope of nursing practice. The Board acts on an individual's request and the ruling is specific to the circumstances as described in the request. Rulings are based on an extensive study of the situation. Following review of the information that has been gathered, the Board determines that a specific activity or procedure is within the scope of practice of the nurse, not within the scope of practice, or within the designated nurse's scope if certain conditions are met. Any rulings that set conditions may require specialized training and education, site requirements, and/or supervision requirements. Nurses should be knowledgeable about these rulings because they may be helpful in making a decision about accepting or rejecting a request to perform nursing activities.

## **Responsibilities**

Individual nurses, nurse supervisors, chief nurse executives, and employers all have responsibilities that contribute to safe, effective patient care. Key responsibilities of licensed nurses [244 CMR: 3.00] and organizations involved in the provision of nursing care are summarized below.

### **The individual nurse:**

- Determines and maintains nursing competence consistent with the NPA and Board regulations.
- Provides competent nursing care to patients.



- Exercises informed judgment and uses individual competence and qualifications as criteria in accepting responsibilities, seeking consultation, and delegating nursing activities to others.
- Clarifies assignments and assesses personal knowledge, skills, and abilities prior to accepting a work assignment.
- Seeks assistance and/or additional training if gaps in knowledge, skills, or abilities are identified. If necessary, negotiates options for all or part of the work assignment when appropriate training and supervision are not available to meet immediate patient care needs.
- Communicates the need for alternate means of care when patient needs exceed the individual nurse's knowledge, skills, or abilities, or other available resources.
- Delegates only those activities which are within the nurse's area of responsibility and competency to delegate. Assesses the needs of patients and the documented competency of unlicensed personnel prior to delegating nursing activities. [244 CMR: 3.05(4)].
- Refuses to engage in nursing activities that are beyond the parameters of the NPA, and/or the nurse's education, capabilities, and experience.
- Does not (cannot) accept responsibility and accountability for an unlicensed individual performing a nursing task that has been delegated by another nurse or individual.

**The nurse supervisor:**

- Evaluates the knowledge, skills, and abilities of nursing staff to provide care.

- Identifies nursing care requirements and organizes resources to ensure that patients receive appropriate care.
- Collaborates with the nurse to clarify work assignments. Also collaborates with the nurse to assess knowledge, skills and abilities, and options for performing a work assignment or components of it when the nurse judges the work assignment to be beyond his/her competency.
- Provides education to staff and supports the decision-making process regarding patient care assignments and reassignments, including patient placement and allocation of resources.
- Provides the nurse with documented competencies of unlicensed personnel.

**The chief nurse executive:**

In collaboration with nursing personnel, establishes a system for provision of care which includes defining a model of nursing practice that:

- Determines competencies of licensed and unlicensed nursing staff.
- Supports the provision of competent nursing care to patients.
- Provides for periodic re-evaluation of the competency of individuals to whom nursing tasks are delegated.
- Determines the competency of nurses to delegate or accept a work assignment.
- Recognizes that the final decision regarding delegation of specific tasks or accepting a work assignment is within the

scope of the individual nurse's professional judgment.

- Institutes screening procedures, hiring practices, and education and training, which assure the provision of safe care by nurses and unlicensed assistive personnel.
- Conducts ongoing monitoring and evaluation of the quality of patient care.
- Defines roles and responsibilities of all categories of caregivers.
- Provides a formal process for timely review and resolution of conflicts related to work assignments.
- Assures that resources are adequate to meet patient care needs.
- Initiates internal or agency disciplinary action for violation of policies and procedures of the facility.

## **Professional Regulatory Considerations**

Nursing, like all professions, regulates itself through professional standards of practice, certification and an ethical code.

## **Application of the Guide for Decision-Making**

*(see Algorithms 1 & 2)*

Every nurse will be faced with making a decision to accept or reject a work assignment (see Algorithm 1). The nurse also may be faced with decisions about delegation of nursing functions to licensed or unlicensed assistive personnel (see Algorithm 2).

An issue central to such decisions is:

- The right of the patient to receive safe quality nursing care at an acceptable level.

### **Accepting/Rejecting an Assignment**

Each nurse is directly accountable for the safety of nursing care he/she provides [MGL 112 § 80B]. Decision making utilized by the nurse when accepting/rejecting an assignment should follow a logical progression (see Algorithm 1).

### **Rejecting an Assignment**

If the nurse is given a work assignment and then believes he/she may not have the knowledge, skills, or experience to perform the assignment, he/she must consult with the supervisor and state that he/she cannot accept the assignment. In doing so, because of the disciplinary consequences of refusal, the nurse is responsible for three additional steps.

**Step 1:** The nurse needs to verbally, and in writing, inform the agency's manager/supervisor of the perceived discrepancies between the required competence and his/her own knowledge, skills, and abilities. The nurse should keep a personal copy of this documentation and the steps taken to remedy the situation. Documentation provides a record of the situation for future reference. Documentation done at the time of the incident is more accurate and complete than documentation done at a later date.

**Step 2:** The nurse should complete and file a “MNA Objection and Documentation of Unsafe Staffing/Unsatisfactory Patient Care Form” if available or otherwise document the situation. A nurse may conclude that it is necessary to refuse to accept a work assignment. It is important for the nurse to be aware of the consequences of his/her decision to accept or refuse the work assignment. You have the right to report this practice to a public body (outside agency). (See MGL, Chapter 149, Section 186 (c) (1), An Act to Protect Conscientious Health Care Employees (The Health Care Workers Whistleblowers Protection Law).

**Step 3:** The nurse needs to be prepared for disciplinary actions, which may follow as a result of the decision to reject an assignment. This action may include sanctions by the employer. The nurse should be aware of options to contest the disciplinary action. These options are found in employer policies or contractual grievance procedures. The nurse has the responsibility to request that the employer provide additional training/orientation for the nurse to practice safely.

# RN Accept

(Algorithm 1)

**Ask yourself all parts of the following questions:**

Is the given assignment permitted by the Nurse Practice Act and Code of Ethics?

No to any →

Yes to all ↴

Are all aspects of assignments/procedures consistent with Standards of Practice, facility policy and supporting scientific rationale?

No to any →

Yes to all ↴

Do you perceive yourself competent in all areas required by the assignment?

No →

Yes ↴

Do you have the resources to respond to complications and assure patient safety and quality of care?

No →

Yes ↴

Is the staffing adequate and patient assignment reasonable?

No →

Yes ↴

Would a reasonable and prudent nurse accept this assignment under these circumstances?

No →

Yes ↴

Do you have the stamina to perform safe patient care and not be fatigued due to mandatory overtime or long hours?

No →

Yes ↴

Are you prepared to accept the potential risks and consequences associated with this work assignment?

No →

Yes ↴

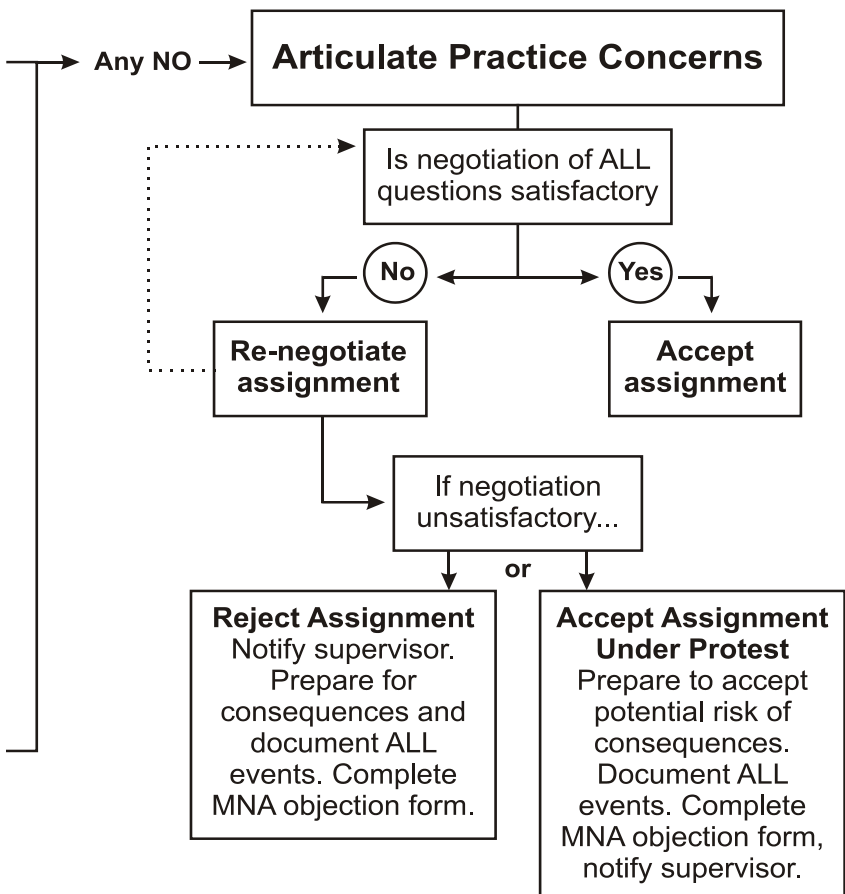
**If YES to all:  
assume responsibility and accept assignment**

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# or Reject An Assignment

→ Reject Assignment

→ Reject Assignment



**Delegation to Licensed/Unlicensed Assistive Personnel.**

Delegation of nursing activities to licensed or unlicensed assistive personnel (UAP) follows a pattern similar to that of evaluating the appropriateness of a work assignment [244 CMR: 3.05(2)] (see Algorithm 2).

**Step 1:** Assess patient first, then state clearly the tasks to be delegated. What aspects of care will be delegated? What specific tasks are to be done? What is the condition of the patient? Is the patient's condition stable or unstable?

**Step 2:** Assess the competency of the licensed/unlicensed individual. Does the unlicensed person have the documented competencies needed to do the task? Can the task be performed without requiring nursing judgment? [CMR: 3.05:(2)(c)]

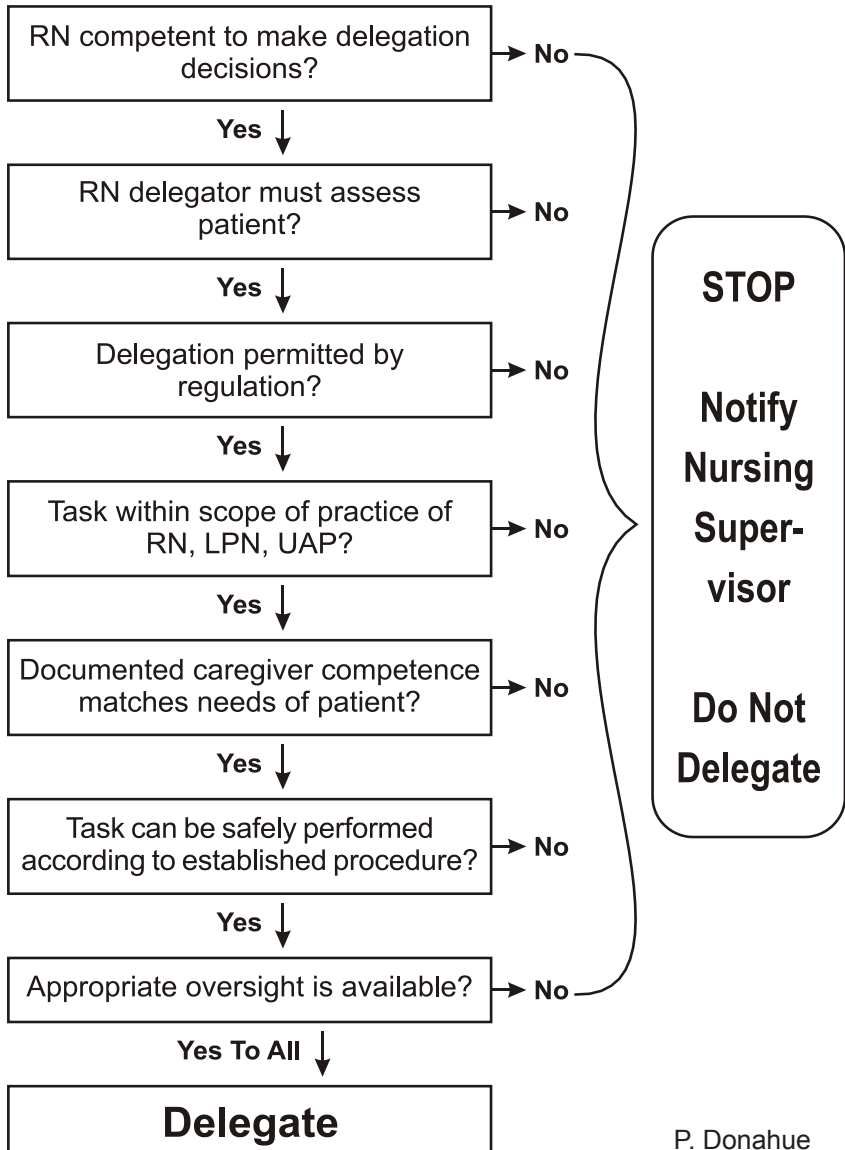
**Step 3:** Confirm or reject delegation. If competencies are documented, delegation may occur. If delegation is rejected, the nurse has the responsibility to personally perform the care or seek alternate ways to provide the care. Notify the supervisor of this decision.

(See Algorithm 2 for delegating an assignment to licensed or unlicensed personnel.)

It is within the scope of the individual licensed nurse's professional judgment to make the final decision, in any given situation, as to what nursing activity can safely be delegated to a UAP.



## RN Delegation of Nurse Activities (i.e. Tasks & Procedures) to RN, LPN or Unlicensed Assistive Personnel (Algorithm 2)



## Glossary

**Abandonment**—means to intentionally terminate any nurse/patient relationship without reasonable notice to the patient or appropriate other person(s), or both, so that arrangements can be made for necessary continuation of care [244 CMR 9.02].

**Accountability**—is the ability and willingness to assume responsibility for one's actions and accepting the consequences of one's behavior (*Fundamentals of Nursing, Concepts, Process and Practice*; Kozier, Erb, Blais, Wilkinson; Addison-Wesley, Fifth Edition; p. 410).

**Advanced Practice Nurse (APN)**—means a Registered Nurse to whom the board has granted written authorization, under authority of MGL Ch. 112, §80B, to engage in advanced practice nursing as defined in 244 CMR 4.00 [244 CMR 9.02].

**Authority**—Permission; a right with the power to do an act ([www.law.com](http://www.law.com)).

**CMR**—Code of Massachusetts Regulations.

**Code of Ethics**—A statement that defines core ethical tenets, describes normative behaviors desired and reflects the ethical aspirations of the nursing profession. Principles of respect, beneficence, nonmaleficence, and justice guide the nursing code of ethics (Scanlon, C. A Professional Code of Ethics Provides Guidance for Genetic Nursing Practice: *Nursing Ethics*, 15, 366-369, 2000).

**Competency**—means the application of knowledge and the use of affective, cognitive, and psychomotor skills required for the role of a nurse licensed by the Board and for the delivery of safe nursing care in accordance with accepted standards of practice [244 CMR.9.02].

**Delegation**—The authorization by a qualified licensed nurse to an unlicensed person as defined in 244 CMR 3.05(1) to provide selected nursing services [244 CMR 3.05(1)].

**Liability**—An obligation one has incurred or might through any

act or failure to act. Responsibility for conduct falling below a certain standard that is the causal connection to the plaintiff's injury (Northrop, Cynthia E. and Kelly, Mary E. *Legal Issues in Nursing*: St. Louis: Mosby, 1987).

**MGL**—Massachusetts General Law.

**Neglect**—means the unjustified failure to provide treatment or services, or both, necessary to maintain the health or safety, or both, of a patient [244 CMR 9.02].

**Nurse Practice Act (NPA)**—Statute that describes the Practice of Nursing as defined in MGL Ch. 112.

**Responsibility**—The obligation to answer for an act done, and to repair any injury it may have caused (Black's Law Dictionary: Revised 4th Edition, p. 1476, 1968).

**Work Assignment**—The designation of responsibility for nursing care or selected nursing functions that are within the scope of the nurse's license.

## **Glossary in Board of Registration in Nursing Definitions**

### **re: Complaints [244 CMR 7.00]**

**Dismissal of complaint.** The Board may dismiss a complaint where it determines that: (a) the Board lacks jurisdiction over the person named in the complaint; (b) there is insufficient evidence to support the complaint; (c) the conduct complained of does not warrant disciplinary action; or (d) a nurse has successfully completed the Board's Substance Abuse Rehabilitation Program (SARP) as determined by the SARP and the Board [244 CMR 7.03].

**Probation.** Probation consists of a period of time during which a nurse who holds a valid license may continue to practice nursing in Massachusetts under terms and conditions specified by the

Board. The nurse whose license is subject to probation must comply with the terms [244 CMR 7.04(2)].

**Reprimand.** The Board may issue a reprimand in the form of a written statement to a nurse licensed by the Board describing the manner in which the nurse has failed to comply with any law or regulation, or both, related to the practice of nursing [244 CMR 7.04(1)].

**Revocation.** Revocation by the Board of a license to engage in the practice of nursing in Massachusetts or APN authorization, or both, terminates the nurse's right to practice nursing in Massachusetts or such authorization, or both, and to in any way represent himself or herself by title or other designation as a Licensed Practical Nurse or Registered Nurse, or as authorized to engage in advanced practice nursing, or both. Revocation of the right to renew a license to practice nursing in Massachusetts terminates the nurse's right to renew such license [244 CMR 7.04(6)].

**Stayed Suspension.** The Board may impose a period of suspension on a license to practice nursing in Massachusetts or on an APN authorization, or both, or on the right to renew such license, which suspension the Board does not activate pending compliance by a nurse licensed by the Board with specified terms and conditions [244 CMR 7.04(4)].

**Surrender.** The Board may request the surrender of a license to practice nursing in Massachusetts or APN authorization, or both, or accept the unsolicited surrender of such license or authorization, or both. The Board may also request the surrender of the right of a nurse licensed by the Board to renew such license or accept the unsolicited surrender of such right to renew. A nurse's surrender of a license to engage in the practice of nursing in Massachusetts or APN authorization, or both, terminates the nurse's right to practice nursing in Massachusetts or such authorization, or both, and to represent himself or herself by title or other designation as a Licensed Practical Nurse or Registered Nurse, or as authorized to engage in advanced practice nursing, or both. Sur-

render of the right to renew a license to practice nursing in Massachusetts terminates the nurse's right to renew such license [244 CMR 7.04(5)].

**Suspension.** Suspension of a license to engage in the practice of nursing in Massachusetts or of an APN authorization, or both, is the temporary denial by the Board of the right of a nurse who holds a valid license or APN authorization, or both, to engage in the practice of nursing in Massachusetts or to engage in advanced practice nursing, or both, and to in any way represent himself or herself by title or other designation as a Licensed Practical Nurse or Registered Nurse, or as authorized to engage in advanced practice nursing or both. Suspension of the right to renew any license to engage in the practice of nursing in Massachusetts is the temporary denial by the Board of the right of a nurse licensed by the Board to renew such license [244 CMR 7.04(3)].

## References

American Nurses Association. ANA Code of Ethics for Nurses. Washington, DC, 2001.

Annotated Code of Maryland. Health Occupations Article. Title 8 §§8-101 – 8- 802.

California Board of Registered Nurses. (October 1998). Abandonment of Patients.

Code of Maryland Regulations, Department of Health and Mental Hygiene, Board of Nursing. Title 10, Subtitle 27.

Florida Nurses Association. Guidelines for the Registered Nurse in Giving, Accepting or Rejecting a Work Assignment. May 1989.

Hansten, B. and Washburn, M. Why Don't Nurses Delegate? 1996: 26 (12) 2~28.

Helmelt, Mary Delores and Mackert, Mary Ellen. Dynamics of Law in Nursing and Health Care. 1978.

Illinois, Delegation of Nursing Care Guidelines. October 1990.

Massachusetts Board of Registration in Nursing, Nursing Practice Advisory Committee Decision-Making Guidelines.

Massachusetts General Law, Chapter 149, Section 186, An Act to Protect Conscientious Health Care Employees

National Council of State Boards of Nursing, Inc. Professional Accountability Forms the Foundation of Professional Development. 1996: 17 (2), 6-7.

The Maryland Nurses Foundation. Giving, Accepting or Rejecting a Work Assignment: A Guide for Nurses.

The State of California Board of Registration in Nursing. Abandonment of Patients (NPR-B-01 Rev. 10/98).

West Virginia Nurses Association and West Virginia Organization of Nurse Executives. Accepting or Rejecting an Assignment: Guidelines for the Nurse.

Zimmerman, P. Delegating to Assistive Personnel. Journal of Emergency Nursing. 1996: 22 (3): 20-212.