

This Proposed rule is only provisionally adopted and does not have the force of law. It will be considered by the Legislature during the 1st Session of the 132nd Legislature for review and approval

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

380 STATE BOARD OF NURSING

Chapter 6 DELEGATION OF NURSING ACTIVITIES AND TASKS TO UNLICENSED ASSISTIVE PERSONNEL BY REGISTERED PROFESSIONAL NURSES

SUMMARY: This rule defines delegation and identifies the responsibilities of a registered professional nurse when delegating nursing activities and tasks to unlicensed assistive personnel.

SECTION 1. DEFINITIONS

1. **Delegation.** “Delegation” means the transfer of authority from a registered professional nurse to unlicensed assistive personnel to perform nursing activities or tasks in situations deemed appropriate by the registered professional nurse.
2. **Delegating nurse.** “Delegating nurse” means a registered professional nurse who delegates nursing activities or tasks.
3. **Supervision.** “Supervision” means the provision of guidance or oversight by a registered professional nurse concerning the performance of nursing tasks or activities by unlicensed assistive personnel, including, but not limited to, initial direction regarding the tasks or activities and periodic inspection of the performance of the delegated tasks or activities.
4. **Unlicensed assistive personnel.** "Unlicensed assistive personnel" means individuals trained to function in a supportive role, regardless of job title, to whom a specific nursing activity or task may be delegated, including, but not limited to, the direct care workers listed in 22 M.R.S. §1812-G(2-A).

"Unlicensed assistive personnel" does not include licensed practical nurses or certified nursing assistants as defined in 32 M.R.S. § 2102(6) and (8).

"Unlicensed assistive personnel" does not include unpaid individuals performing tasks at the direction of a patient.

SECTION 2. RESPONSIBILITIES OF REGISTERED PROFESSIONAL NURSES

1. The registered professional nurse is responsible for the nature and quality of all nursing care that a patient receives. Assessment of the nursing needs of a patient, the plan of

nursing actions, implementation of the plan, and evaluation are essential components of professional nursing practice and are the functions of the registered professional nurse. Although other personnel may be employed to assist the registered professional nurse in the performance of these functions, such personnel cannot be used as a substitute for the responsibility of the registered professional nurse.

- A. Regardless of setting, the registered professional nurse who delegates nursing activities or tasks to unlicensed assistive personnel must comply with the provisions of this rule and is responsible for exercising the judgment and knowledge ordinarily expected of a registered professional nurse. The registered professional nurse shall ensure that the unlicensed assistive personnel to whom activities and tasks are delegated meet the competency requirements of the unlicensed assistive personnel's employing facility or organization. Unlicensed assistive personnel may not reassign a delegated activity or task. For unlicensed assistive personnel not employed by a facility or organization, the registered professional nurse shall ensure that the unlicensed assistive personnel to whom activities and tasks are delegated possess the appropriate skills and knowledge to perform the delegated activity or task.

- B. The delegating nurse must provide adequate supervision of all nursing activities or tasks delegated to unlicensed assistive personnel. The degree of supervision required is determined by the delegating nurse after an evaluation of appropriate factors involved, including, but not limited to:
 - (1) The right task: The activity falls within the job description and is included as part of the established written policies and procedures of the practice setting.
 - (2) The right circumstance: The health condition of the patient is stable.
 - (3) The right person: The unlicensed assistive personnel have the training, capability, and continued demonstrated skills and knowledge to perform the delegated activities or tasks.
 - (4) The right direction and communication: The delegating nurse must communicate specific instructions for the delegated activities or tasks and ascertain that the unlicensed assistive personnel understand what is expected and agree to the delegation.
 - (5) The right supervision and evaluation: The registered professional nurse must be readily available to the unlicensed assistive personnel performing the delegated nursing activity or task, either in-person, by telephone, or through another form of telecommunication.

- C. In addition to the unlicensed assistive personnel's skills and knowledge of the delegated nursing activities or tasks, other competencies to be considered include, but are not limited to, the unlicensed assistive personnel's ability to effectively collaborate, communicate, and cooperate, as appropriate, with the delegating nurse, other health care professionals, and the patient.

- D. The delegating nurse can determine at any time that nursing activities or tasks can no longer be delegated based on a change in the health status of the patient, the unlicensed assistive personnel's performance of the activities or tasks, or other reason the delegating nurse determines may jeopardize patient health or safety.

STATUTORY AUTHORITY: 32 M.R.S. § 2102(2)(H) and (11), *amended by* P.L. 2024, ch. 592 (effective Aug. 9, 2024), and 32 M.R.S. § 2153-A(1).

EFFECTIVE DATE: