

02	DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
380	BOARD OF NURSING
Chapter 5	REGULATIONS RELATING TO TRAINING PROGRAMS AND DELEGATION BY REGISTERED PROFESSIONAL NURSES OF SELECTED NURSING TASKS TO CERTIFIED NURSING ASSISTANTS

SUMMARY: This chapter defines delegation; states the responsibilities of a registered professional nurse in delegating selected nursing tasks to certified nursing assistants; sets forth the requirements relating to training programs; and states the criteria for listing on the MAINE REGISTRY OF CERTIFIED NURSING ASSISTANTS AND DIRECT CARE WORKERS.

DEFINITION: Delegation is the transferring to a competent individual authority to perform a selected nursing task in a selected situation.

SECTION 1. General Regulations Relating to Delegation of Selected Nursing Tasks by Licensed Nurses

- A. 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 registered professional nurse. The services of registered professional nurses may be supplemented and complemented by the services of licensed practical nurses and certified nursing assistants.
 - 1. The registered professional nurse in a hospital, nursing facility, skilled care facility, ambulatory care, community health agency, facilities providing assisted housing services licensed under 10-144 CMR Ch. 113, Regulations Governing the Licensing and Functioning of Assisted Housing Programs correction facilities and county jails. shall determine those nursing tasks that may safely be delegated to nursing assistants. No task shall be delegated that is not listed in the Skills Checklist of the PRESCRIBED GENERALIST CURRICULUM FOR NURSING ASSISTANT TRAINING PROGRAMS, or authorized after additional training by a facility or organization as described in this chapter. When the task is the administration of medications, nothing may be delegated that is not listed in the Skills Checklist of the Standardized Medication Course for Certified Nursing Assistants.

2. In assigning selected nursing tasks to certified nursing assistants, the registered professional nurse is responsible for complying with the provisions of this chapter and for exercising the judgment and knowledge ordinarily expected of a registered professional nurse. The nursing employer shall determine that the nursing assistant is listed on the Maine Registry of Certified Nursing Assistants and Direct Care Workers and will ensure that the certified nursing assistant meets the competency requirements of the facility or organization.
 3. The registered professional nurse also is responsible for supervision of certified nursing assistants to whom delegation is made. The degree of supervision needed shall be determined by the registered professional nurse after an evaluation of all factors involved, including without limitation:
 - a) The right task: the activity falls within the certified assistant's job description and is included as part of the established written policies and procedures of the nursing practice setting;
 - b) The right circumstance: the stability of the condition of the patient;
 - c) The right person: the training and capability of the certified nursing assistant to whom the delegation is being made;
 - d) The right direction and communication: each delegation should be specific to the patient, the registered professions, the certified nursing assistant. The registered professional nurse is expected to communicate specific instructions for the delegated activity to the certified nursing assistant and ascertain that the certified nursing assistant understands what is expected of him/her and agrees to accept the delegation; and
 - e) The right supervision and evaluation: supervision may require direct, continuing presence of the registered professional nurse to observe, guide and direct the nursing assistant; intermittent observation and direction by the registered professional nurse who may only occasionally be physically present; or development of a plan of care, in advance, by the registered professional nurse which will be implemented by the nursing assistant without the physical presence of the registered professional nurse. In the latter situation, the registered professional nurse must be available for supervision, in person, in the event circumstances arise that cause the registered professional nurse to believe such supervision is necessary.
- B. Home Care Setting. In the home care setting only the registered professional nurse may delegate certain aspects of medication administration to the certified nursing assistant who has not completed the Standardized Medication Course for Certified

Nursing Assistants.

1. Delegation by the registered professional nurse may only occur if:
 - a) There is a stable predictable pattern of need;
 - b) There is consent of the patient/family or patient's designee as indicated with a signature on the care plan; and
 - c) The training, capability, and competency of the certified nursing assistants is appropriate to the identified need.
 2. The registered professional nurse shall ascertain that the certified nursing assistant in the home care setting who has not completed the Standardized Medication Course for Nursing Assistants has documented competencies according to the facility or organization's policies and procedures to perform any of the following skills prior to delegation: oral medications; ear and eye drops; non-narcotic patches; insulin injections for stable diabetics using pre-filled syringes; topical medications; inhalants (hand held manufactured inhalers, and long term nebulizer therapy); vaginal/rectal medications; scheduled Schedule IIs, gastrostomy G-tube feedings and gastrostomy-jejunostomy (G-J) tube feedings (established, stable G-tube and G-J tubes).
 3. Medication that may not be delegated include PRN medication and those administered via intrathecal, intravenous, intramuscular, subcutaneous (except insulin) routes nor any other invasive methods.
- C. Additional skills of nursing care are skills of nursing care beyond those listed in the Board APPROVED PRESCRIBED GENERALIST CURRICULUM FOR NURSING ASSISTANTS TRAINING PROGRAMS for certified nursing assistants. These additional skills may be performed by certified nursing assistants when taught and assigned in accordance with the organization or facility's established policies and procedures. Certified Nursing Assistants' documented competencies of additional skills are not transferrable from one facility to another, except that facilities within the same organization may share staff with additional skills training as described above in this subsection. Documentation of this additional skills training must be maintained at each organization or facility as indicated by the organization or facility's documented retention policies.
- D. Certified nursing assistant additional skill(s) eligibility will be determined by the facility or organization's evaluation of readiness to participate.
1. The registered professional nurse will not teach or assign the certified nursing assistant tasks that are categorized as health counseling, teaching independent, specialized nursing knowledge and skill.

2. The Certified Nursing Assistant Additional Skills List includes but is not limited to:
 - a) Perform an electrocardiogram (EKG).
 - b) Perform venipuncture for blood collection purposes.
 - c) Perform a straight catheter procedure on an adult patient 18 years or older.
 - d) Provide gastrointestinal-tube (G-tube) and percutaneous gastronomy (PEG) gravity tube feeding only to an established G-Tube, G-J Tube or PEG Tube.
 - e) Assist a patient with eye drops.
 - f) Perform a bladder scan.
 - g) Obtain a swab for surveillance culture.
 - h) Assist with Continuous Positive Airway Pressure (CPAP) and Bilevel Positive Airway Pressure (BIPAP) for patients with chronic respiratory conditions such as sleep apnea.
- E. Under the assignment and supervision of a registered professional nurse, pursuant to an established nursing plan of care a licensed practical nurse may delegate to and oversee completion of selected nursing tasks by certified nursing assistants.

SECTION 2. General Regulations Relating to the PRESCRIBED GENERALIST CURRICULUM FOR NURSING ASSISTANT TRAINING PROGRAMS

Approval and monitoring of training programs for nursing assistants shall be carried out in accordance with 32 M.R.S.A. Section 2104.

- A. The Board's PRESCRIBED GENERALIST CURRICULUM FOR NURSING ASSISTANT BASIC TRAINING PROGRAMS shall be utilized for nursing assistant training programs.
 1. The registered professional nurse, by law, is responsible for the supervision and teaching of nursing personnel. Therefore, a registered professional nurse shall be in charge of the instructional program to prepare assistants to nurses.
 2. No program shall be conducted that includes less than 70 hours of classroom instruction, 20 hours of skills laboratory and 40 hours of correlated, supervised clinical practice (Shall be effective September 1, 2021).

3. The clinical instructor/student ratio of one to one may at times be necessary for adequate learning and safe patient care. The clinical instructor/student ratio must be at least one instructor for every ten students. The registered professional nurse instructor must provide direct onsite supervision during clinical learning experiences.
4. All course objectives must be met to successfully complete this program. All skills must be demonstrated, and the student must perform return demonstrations satisfactorily, either in the clinical setting or in the skills laboratory.
5. Content need not be taught in the order listed. Time may be added and emphasis made by the instructor to highlight certain aspects of the curriculum.
6. Certified nursing assistant program students will not be taught content beyond what is included in the Board approved PRESCRIBED GENERALIST CURRICULUM FOR NURSING ASSISTANT TRAINING PROGRAMS.

B. Accreditation or Approval by Other Organizations

The institution or agency conducting the training program or course, as well as the institutions or agencies cooperating with the program, shall be licensed or approved by the appropriate State licensing authority or accredited by the appropriate organization.

C. Instructional Staff

1. Each registered professional nurse shall be currently licensed to practice as a registered professional nurse in Maine or hold a current registered nurse multistate license issued by a state that has adopted the Nurse Licensure Compact in which the licensee legally resides and meet the federal requirements for nursing assistant instructors [42 CFR 483.152].
2. Only registered professional nurses shall serve as classroom and clinical instructors. Members of other disciplines may assist in the teaching as necessary and desirable.

D. Students

1. Qualifications for Admission
 - a) Completion of the ninth grade of school (high school graduation or high school equivalency diploma preferred.

- b) Minimum age of 16 years.
- c) Ninth-grade English reading and writing competency level on the Test of Adult Basic education (TABE), Competency Adult Student Assessment System (CASAS), or other competency assessment mechanisms as approved by the Board.

2. Requirements for Retention and Completion

- a) The instructional staff shall develop requirements for class attendance, scholastic achievement; (minimum of 70%), clinical competence, and personal growth that shall be consistent with the goal of maintaining the highest quality of health care for the patient.
- b) Criteria for determining student progress shall be developed and used by the instructional staff in the evaluation of the students at intervals throughout the training program.
- c) Policies or procedures pertaining to dismissal shall be clearly stated and shall adequately safeguard the rights of both the students and the institution or agency conducting the training program.
- d) All the above shall be available in writing to the students.

E. Certificate of Training

- 1. The institution or agency conducting the program shall issue a certificate of training to each student who satisfactorily completes the training program. Such certificate shall clearly designate the following:
 - a) Completion of the Board's PRESCRIBED GENERALIST CURRICULUM FOR NURSING ASSISTANT TRAINING PROGRAMS;
 - b) Number of classroom, skills laboratory, and supervised clinical hours;
 - c) Beginning and ending dates of the program;
 - d) Name of the agency conducting the training program;
 - e) Signature of the registered professional nurse director of the training program; and

- f) Statement of approval by the Department of Health and Human Services.
 - 2. The director of a nursing educational program preparing persons for admission to a licensure examination may issue a certificate of training to a currently enrolled student or to a former student who has terminated enrollment in the program when such individual has satisfactorily completed at least the equivalent of the Board's PRESCRIBED GENERALIST CURRICULUM FOR NURSING ASSISTANT TRAINING PROGRAMS.
- F. Facilities and Resources
- 1. The physical facilities utilized for the training program shall be adequate to the needs of the program and to the size of instructional staff and student body. These include classrooms, conference rooms, and laboratories sufficient in numbers and size to facilitate scheduling classes on a sound educational basis and to fulfill the objectives of the program.
 - 2. The resources for planned learning experiences shall include the quality and variety needed for the objectives of the training program.
- G. Hospitals, nursing homes, home health agencies, hospice and facilities providing assisted housing services licensed under 10-144 CMR Ch. 113, REGULATIONS GOVERNING the LICENSING and FUNCTIONING of ASSISTED HOUSING PROGRAMS may be utilized for clinical learning experiences. Such health care facilities shall meet federal requirements for nursing assistant training [42 CFR 483.151(b)(2)].
- H. Up-to-date learning resources shall be available for use by students and instructors consistent with the needs of the curriculum.
- I. Evaluation of Training Program
- The registered professional nurse director of the training program and the instructors shall be responsible for determining and developing methods and procedures to be used in measuring the extent to which the objectives of the training program have been achieved. The results shall be the basis for future action in planning improved program delivery.

SECTION 3. General Regulations Relating to Accepting the Certified Nursing Assistant Who Has Been Educationally Prepared in a State Other Than Maine.

- A. Consideration for listing on the MAINE REGISTRY OF CERTIFIED NURSING ASSISTANTS and DIRECT CARE WORKERS:
1. The nursing assistant has passed a nationally certified nursing assistant testing process that includes the evaluation of both theory and clinical competence; and
 2. The nursing assistant:
 - a) Has graduated from a certified nursing assistant program outside of the State of Maine within the last year; or
 - b) Has been employed as a certified nursing assistant outside of the State of Maine for the last two years.
- B. A nursing assistant who does not meet the above requirements must complete a Department of Health and Human Services approved certified nursing assistant training program and meet the Maine requirements for listing on the MAINE REGISTRY OF CERTIFIED NURSING ASSISTANTS and DIRECT CARE WORKERS.

SECTION 4. General Regulations Relating to the STANDARDIZED MEDICATION COURSE FOR CERTIFIED NURSING ASSISTANTS

The purpose of this course is to teach **experienced** certified nursing assistants to administer **selected medications** to patients who are **4 years of age and older**. This complex nursing task shall be performed under the direct **on-site** supervision of a licensed nurse, **only** in: long term care nursing facilities; state mental health institutions; county jails and state correctional facilities; assistive living settings as part of a multi-level facility; ambulatory care (limited to transcription of orders); and in a hospital or critical access hospital's designated unit for swing beds, as defined by 10-144 CMR, Ch. 112, Section 1, 1.12, provided that the following criteria are met:

- The swing bed unit is in a designated part of the facility;
- All swing beds are contiguous with each other; and
- The designated swing bed unit includes all of the beds within the designated area, and does not consist of a random collection of individual rooms or beds that are scattered throughout the facility.

A. Approval Process for the Board's STANDARDIZED MEDICATION COURSE FOR CERTIFIED NURSING ASSISTANTS

1. Requests for initial approval to teach the medication course shall be submitted to the Board at least 60 days prior to the desired starting date of the course and annually thereafter. Board approval shall be received by the educational institution or health care facility/agency prior to implementation of the medication course.
2. Revisions in the content of the medication course and changes in instructional staff, classroom and/or clinical sites shall be submitted to the Board for approval prior to implementation of the medication course.

B. General Requirements for Teaching the Course

1. Only the Board's STANDARDIZED MEDICATION COURSE FOR CERTIFIED NURSING ASSISTANTS shall be utilized for medication courses.
2. The registered professional nurse, by law, is responsible for the supervision and teaching of nursing personnel. Therefore, a registered professional nurse shall be in charge of the medication course.
3. Only registered professional nurses shall serve as classroom and clinical instructors. Members of the other disciplines may assist the instructor as necessary and desirable.
4. No medication course shall be conducted that includes less than 60 hours of classroom instruction, 20 hours of skills laboratory and 40 hours of correlated, supervised clinical practice.
5. The clinical instructor/student ratio must be at least one instructor to every three students when administering medications in the clinical setting.
6. All course objectives must be met to successfully complete this course. All skills listed in the Skills Check List must be demonstrated and the student must perform return demonstrations satisfactorily, either in the clinical setting or in the skills laboratory.
7. Content need not be taught in the order listed. Time may be added and emphasis made by the instructor to highlight certain aspects of the curriculum.

8. Students participating in a certified nursing assistant-medication program will not be taught content beyond what is included in the Board approved Prescribed Certified Nursing Assistant-Medication Course.
9. Student instruction for subcutaneous diabetic medications will be for patients with stable diabetic conditions; medications administered through the gastrostomy routes will be for patients who have a chronic, stable access tube; and nebulizer therapy will be for patients with chronic disease.

C. Faculty Qualifications

1. The faculty member must hold current licensure in Maine as a registered professional nurse or a multistate license issued by a state that has adopted the Nurse Licensure Compact and in which the licensee legally resides.
2. The faculty member must have two years of medication administration or supervision of medication administration experience as a registered professional nurse in a clinical setting in the last five years.
3. A written recommendation attesting to previous teaching experience and ability is required.

D. Student Requirements for Admission

1. Active listing on the MAINE REGISTRY OF CERTIFIED NURSING ASSISTANTS and DIRECT CARE WORKERS.
2. Evidence of employment as a CNA for 1200 hours in the last two years.
3. Tenth grade reading and writing comprehension competency level on a competency assessment mechanism as approved by the Board.

E. Certificate of Training

1. The institution or agency conducting the Board's medication course shall award a certificate of training to each student who satisfactorily completes the course. Such certificate shall clearly designate the following:
 - a) completion of the Board's STANDARDIZED MEDICATION COURSE FOR CERTIFIED NURSING ASSISTANTS;
 - b) the specific number of classroom/laboratory hours;
 - c) the specific number of correlated, supervised clinical hours;
 - d) the exact beginning and ending dates of the course;

- e) the skill level achieved in the course;
 - f) name of institution or agency conducting the course;
 - g) the limitations of the certification: selected injectable diabetic medications and non-injectable medications to patients 4 years and older under the on-site supervision of a licensed nurse, and only in long term care nursing facilities, state mental health institutions, county jails and state correctional facilities, assistive living settings as part of a multi-level facility, ambulatory care (limited to transcription of orders), and in a hospital or critical access hospital's designated unit for swing beds, as defined by 10-144 CMR, Ch. 112, Section 1, 1.12.
 - h) signature of the registered professional nurse director of the course; and
 - i) statement of approval by the Board.
- 2. The certificate awarded shall remain the property of the certified nursing assistant to whom it is awarded.
 - 3. Certificates of training will be awarded **only** to certified nursing assistants who have successfully completed the Board's medication course. **There is no mechanism to award certificates for comparable training, nor can this medication course be challenged.**

F. Exemption to Requirement for Completion of CNA-M Course

- 1. The following individuals are not required to complete the Board's STANDARDIZED MEDICATION COURSE FOR CERTIFIED NURSING ASSISTANTS in order to administer selected medications to patients who are 4 years of age and older under the conditions outlined in Section 4:
 - a) A Maine RN nursing student who has an active listing on the MAINE REGISTRY OF CERTIFIED NURSING ASSISTANTS and DIRECT CARE WORKERS provides a letter from the director of the student's nursing program that verifies completion of medication administration education that is equivalent to the CNA-M course; and
 - b) A graduate of a Maine registered professional nurse or practical nurse program who has an active listing on the MAINE REGISTRY OF CERTIFIED NURSING ASSISTANTS and DIRECT CARE

WORKERS provides evidence of completion of the nursing program.

- c) The director of the nursing program will submit documents to the facility verifying the information.

G. Certified Nursing Assistant Medication Title

- 1. Certified Nursing Assistant-Medications (CNA-M) shall be the title.

H. Continuing Competency

- 1. A health care facility applying for Board approval to conduct the medication course shall provide a mechanism for maintaining competency.
- 2. A facility or adult education program applying for Board approval to conduct the medication course shall provide evidence that all of its potential CNA-M students maintain an active status on the MAINE REGISTRY OF CERTIFIED NURSING ASSISTANTS and DIRECT CARE WORKERS and are in good standing.

I. Facilities and Resources

- 1. The physical or virtual classroom and clinical facilities utilized for the medication course shall be adequate to the needs of the course and to the size of instructional staff and student body. These include classrooms, conference rooms, and laboratories sufficient in numbers and size to facilitate scheduling classes on a sound educational basis and to fulfill the objectives of the course. Clinical education may not be conducted virtually.
- 2. The resources for planned learning experiences shall include the quality and variety needed for the objectives of the course.
- 3. Learning resources shall be available for use by students and instructors. The holdings shall be consistent with the needs of the curriculum, the student body, and the instructors.

J. Evaluation of Medication Course

The registered professional nurse director of the medication course and the instructors shall be responsible for determining and developing methods and procedures to be used in measuring the extent to which the objectives of the medication course have been achieved. The results of such self-appraisal shall be the basis for future action in planning improved course delivery.

SECTION 5. Eligibility Requirements for Entry on the Maine Registry of Certified Nursing Assistants and Direct Care Workers

- A. To be eligible for listing on the MAINE REGISTRY OF CERTIFIED NURSING ASSISTANTS and DIRECT CARE WORKERS, the nursing assistant shall be in compliance with **one** of the following:
1. has successfully completed competency testing and meets **one** of the following criteria:
 - a) has successfully completed the Board's PRESCRIBED GENERALIST CURRICULUM FOR NURSING ASSISTANT TRAINING PROGRAMS
 - b) has been awarded a certificate of completion of nursing assistant training from the Department of Educational and Cultural Services (DECS);
 - c) has been awarded a certificate of training that identifies that such course;
 - d) met requirements set forth in Chapter 5 of the Board's Rules and Regulations at the time the training took place;
 - e) provides documentation of nurse assistant training in Maine prior to 1975.
 2. has been awarded a certificate of equivalent training from the director of an educational program in nursing preparing individuals for admission to the licensure examination;
 3. has provided additional documentation that the criteria set for in Chapter 5 were met at the time the training took place;
 4. has submitted documentation of employment for 24 consecutive months between December 19, 1987 and December 19, 1989 at one or more Maine facilities of the same employer, as set forth in 42 CFR 483.150(b)(1) and is currently employed by that facility; or
 5. has met the requirements for nursing assistants who have been educationally prepared in a state other than Maine as set forth in Section 3 above.
- B. A nursing assistant who has received training in another jurisdiction, may request temporary listing on the MAINE REGISTRY OF CERTIFIED NURSING ASSISTANTS AND DIRECT CARE WORKERS, pending consideration for permanent listing on the MAINE REGISTRY OF CERTIFIED NURSING

ASSISTANTS AND DIRECT CARE WORKERS as set forth in Section 3 above. Such temporary listing shall be in effect for a maximum of 4 months and shall not be renewed.

SECTION 6. Fraud or Deceit in Obtaining a Certificate of Training

An individual who practices fraud or deceit in obtaining a certificate of training as a nursing assistant shall not be eligible for listing on the MAINE REGISTRY OF CERTIFIED NURSING ASSISTANTS and DIRECT CARE WORKERS..

STATUTORY AUTHORITY: 22 MRSA Section 1812-G(3), 32 MRSA Sections 2102, 2104 and 2153-A

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