

**This Proposed rule is only provisionally adopted and does not have the force of law. It will be considered by the Legislature during the 2nd 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 establishes standards for the delegation of nursing activities and tasks to unlicensed assistive personnel in order to protect the public health and welfare in the area of nursing service.

---

## **SECTION 1. PURPOSE**

In 2024 the State Board of Nursing (Board) statute was amended to allow registered professional nurses to delegate specific nursing activities and tasks to be provided to patients by unlicensed assistive personnel. Significantly, the amended law specifically provides that such delegation is permitted but not required nor can it be coerced:

This paragraph may not be construed to require a nurse to delegate, or permit a person to coerce a nurse into delegating specific nursing activities and tasks in any care setting against the nurse's professional judgment or to prohibit a nurse in the exercise of the nurse's professional judgment from refusing to delegate specific nursing activities and tasks in any care setting.

32 M.R.S. § 2102(2)(H).

This rule may not be construed to require a nurse to delegate any activities or tasks in contravention of the language of the law identified above.

The law also directed the Board to adopt rules concerning delegation of nursing activities and tasks to unlicensed assistive personnel that the Board considered necessary to ensure access to quality health care for Maine patients.

The purpose of this rule is to establish standards for the delegation of nursing activities and tasks to unlicensed assistive personnel in order to protect the public health and welfare in the area of nursing service. The Board believes that the licensed registered professional nurse is in a unique position to develop and implement a nursing plan of care that incorporates a professional relationship between the licensed registered professional nurse and the patient. The Board recognizes that the licensed registered professional nurses' responsibility may vary from that of

the nurse providing care at the bedside of an acutely ill patient to that of the licensed registered professional nurse managing health care delivery in institutional and community settings. Assessment of the nursing needs of the patient, the plan of nursing actions, implementation of the plan, and evaluation are essential components of professional nursing practice and are the responsibilities of the licensed registered professional nurses. The full utilization of the services of a licensed registered professional nurse may require delegation of selected nursing activities and tasks to unlicensed assistive personnel based on initial and periodic assessment. The scope of delegation and the level of supervision by the licensed registered professional nurse may vary depending on the setting, the complexity of the task, the skills and experience of the unlicensed assistive personnel, and the patient's physical and mental status. The appropriateness of delegating nursing activities and tasks will vary upon the type of setting and the patient's condition. For example, delegation in acute-care settings with medically unstable patients will differ from delegation in a non-acute care setting with medically stable patients. Regardless of the setting, the delegating licensed registered professional nurse is responsible for following this rule. The following sections govern the RN in delegating nursing activities and tasks to unlicensed assistive personnel across a variety of settings where nursing care services are delivered.

## SECTION 2. DEFINITIONS

1. **Activities of daily living. “Activities of daily living (ADLs)”** means basic self-care tasks that people perform daily to maintain their health and well-being and are limited to the following activities: bathing, dressing, grooming, routine hair and skin care, meal preparation, feeding, exercising, toileting, transfer/ambulation, positioning, and range of motion.
2. **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.
3. **Delegating nurse.** “Delegating nurse” means a registered professional nurse who delegates nursing activities or tasks.
4. **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.
5. **Unlicensed assistive personnel or unlicensed assistive person.** The terms "unlicensed assistive personnel" and “unlicensed assistive person” mean 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" and "unlicensed assistive person" do not include licensed practical nurses or certified nursing assistants as defined in 32 M.R.S. § 2102(6) and (8).

"Unlicensed assistive personnel" and "unlicensed assistive person" do not include unpaid individuals performing tasks at the direction of a patient.

### **SECTION 3. GENERAL CRITERIA FOR DELEGATION**

1. Regardless of setting, the registered professional nurse who delegates nursing activities and tasks to unlicensed assistive personnel must comply with the following requirements:
  - A. The delegating nurse is directly responsible for the nature and quality of all nursing care rendered under the delegating nurse's direction. However, in the event the qualified unlicensed assistive personnel 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 or task performed by the unlicensed assistive personnel.
  - 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. Although other personnel may be employed to assist the licensed registered professional nurse in the performance of these functions, such personnel cannot be used as a substitute for the responsibility of the licensed registered professional nurse.
  - C. Prior to delegating a nursing activity or task, the delegating nurse must make an assessment of the patient's nursing care needs and care delivery setting to ensure the activity or task can be safely delegated to the unlicensed assistive personnel.
  - D. The nursing activity or task to be delegated must be one that a reasonable and prudent licensed registered professional nurse would determine to be delegable within the nurse's scope of nursing judgment and would not require the unlicensed assistive personnel to systematically assess, analyze, interpret, plan and or evaluate patient data. The delegated activity or task must be one that can be properly performed by the unlicensed assistive personnel without jeopardizing the patient's safety and welfare.
  - E. Said delegation must occur within the job description of the unlicensed assistive person and the unlicensed assistive person's employing facility's or organization's policies and procedures. Such employer policies and procedures must include acknowledgment that the final decision to delegate is made by the delegating nurse only, in compliance with 32 M.R.S § 2102(2)(H). Employer policy or contractual language cannot mandate the licensed registered professional nurse to delegate, nor mandate any components of the delegation process.

- F. The unlicensed assistive person must have on file within the employing facility or organization current documentation of the unlicensed assistive personnel's competencies for the proper performance of each of the nursing activities and tasks identified within the unlicensed assistive person's job description. Such documentation must demonstrate that the unlicensed assistive person's competency for each nursing activity and task has been periodically evaluated, and that an administratively designated nurse has communicated the unlicensed assistive person's job functions and competencies to the licensed registered professional nurse(s) who will be delegating nursing activities and tasks to the unlicensed assistive person. Uniform training and certification may be used as a basis to presume baseline competencies of an unlicensed assistive person. For unlicensed assistive personnel not employed by a facility or organization, the licensed 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.
  - G. In addition to the unlicensed assistive person's competence to perform selected nursing activities and tasks, other competencies to be considered include, but are limited to, the unlicensed assistive person's ability to effectively collaborate, communicate and cooperate, as appropriate, with other health care providers and with the patient. Unlicensed assistive personnel may not reassign a delegated activity or task.
  - H. The delegating nurse must provide the unlicensed assistive person with a nursing plan of care that includes, but is not limited to, the desired effect of the nursing activity or task, the sequence of steps to perform the activity, adverse side effects to be reported to the delegating nurse, and the need to report to the delegating nurse those activities or tasks that do not produce the desired effect.
  - I. The delegating nurse must adequately supervise the performance of the delegated nursing activity or task in accordance with the requirements of supervision as found in section 3(2) of this rule.
  - J. 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 circumstance that may jeopardize patient health or safety.
2. Supervision. 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:
- A. The right task: The activity or task falls within the job description and is included as part of the established written policies and procedures of the practice setting.
  - B. The right circumstance: The health condition of the patient is stable and predictable.

- C. The right person: The unlicensed assistive personnel have the training, capability, and continued demonstrated skills and knowledge to perform the delegated activities or tasks.
- D. 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.
- E. The right supervision and evaluation: The delegating 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 in compliance with 02-380 C.M.R. ch. 11, “Joint Rule Regarding Standards of Telehealth Practice.”

#### **SECTION 4. NURSING ACTIVITIES AND TASKS THAT MAY BE DELEGATED**

1. **Nursing Activities and Tasks That Are Most Commonly Delegated.** By way of example, and not in limitation, the following nursing activities and tasks are ones that, with appropriate training and competency, may fall within the scope of sound professional nursing practice to be considered for delegation, regardless of the setting. The delegating nurse determines the level of supervision required, provided the delegation is in compliance with Section 3 of this rule. Those commonly delegated activities and tasks include, but are not limited to:
  - A. Non-invasive and non-sterile treatments;
  - B. The collecting, reporting, and documentation of data including, but not limited to:
    - (1) vital signs, height, weight, intake and output, capillary blood test, and urine test;
    - (2) environmental situations;
    - (3) patient or family comments relating to the patient’s care; and
    - (4) behaviors related to the plan of care;
  - C. Ambulation, positioning, and turning;
  - D. Transportation of the patient within a facility;
  - E. Personal hygiene and elimination;
  - F. Feeding, cutting up of food, or placing of meal trays;
  - G. Socialization activities;

- H. Activities of daily living; and
- I. Reinforcement of health teaching planned and/or provided by the registered nurse.

## **SECTION 5. NURSING ACTIVITIES AND TASKS THAT MAY NOT BE DELEGATED**

1. **Nursing Activities and Tasks Prohibited from Delegation.** By way of example, and not in limitation, the following are nursing activities and tasks that are not within the scope of sound professional nursing judgment to delegate:
  - A. Physical, psychological, and social assessment that requires professional nursing judgment, intervention, referral, or follow-up;
  - B. Formulation of the nursing care plan and evaluation of the patient's response to the care rendered;
  - C. Specific tasks involved in the implementation of the care plan that require professional nursing judgment or intervention;
  - D. Activities that may lead to an unpredictable outcome;
  - E. Patient health teaching and health counseling that promotes patient education and involves significant others in accomplishing health goals; and
  - F. Administration of medications, including intravenous fluids, except by unlicensed assistive personnel in accordance with 20-A M.R.S. § 254(5) and 05-071 C.M.R. ch. 40, "Rule for Medication Administration in Maine Schools;" and unlicensed assistive personnel employed in facilities or agencies listed in Title 22 §42.

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: