

# **Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

## **Subtitle 27 BOARD OF NURSING**

### **Chapter 11 Delegation of Nursing Functions**

**Authority: Health Occupations Article, §§8-102, 8-205, 8-6A-01, 8-6A-03, 8-6A-05(a)(4),  
and 8-6A-08(f)(5), Annotated Code of Maryland**

#### **.01 Exclusion from Regulations.**

This chapter is not applicable to and does not restrict or limit:

- A. Other health care practitioners who are authorized delegatory powers under their respective acts;
- B. The gratuitous provision of care by self, family, or friends;
- C. Provision of care by a child care provider employed in the child's home by the child's parent or by a child care provider licensed by the Child Care Administration under COMAR 07.04.01 (Family Day Care) or COMAR 07.04.02 (Child Care Center Licensing) except for those providers enrolling a majority of children with health or medical conditions or both;
- D. The cognitively capable adult from employing an unlicensed caregiver in the adult's home to assist the adult in treatments of a routine nature and in self-administration of medication;
- E. An individual who performs nursing assistant tasks while a nursing student enrolled in an accredited nursing education program and practicing under the direct supervision of:
  - (1) Qualified faculty or preceptors; or
  - (2) A nurse while working as a nursing assistant;
- F. An individual who performs nursing assistant tasks as a student while:
  - (1) Enrolled in a Board-approved nursing assistant training program;
  - (2) Practicing under the direct supervision of qualified faculty or preceptors; or
  - (3) Practicing under the direct supervision of a nurse while working as a nursing assistant; or

G. A nurse from delegating a nursing task to an unlicensed individual if acceptance of delegated nursing tasks does not become a routine part of the unlicensed individual's job duties.

## **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Accountability" means being answerable for actions of self or others.
- (2) "Board" means the Board of Nursing.
- (3) "Certified medicine aide (CMA)" means an individual who meets the requirements as stated in COMAR 10.39.01 and 10.39.03.
- (4) "Certified nursing assistant (CNA)" means an individual certified by the Board as a nursing assistant.
- (5) "Client" means the recipient of nursing care.
- (6) "Delegation" means the act of authorizing an unlicensed individual, a certified nursing assistant, or a medication technician to perform acts of registered nursing or licensed practical nursing.
- (7) "Evaluation" means the review and analysis of the extent to which the assessment, nursing diagnosis, planning, and implementation phases of the nursing process were effective in resolving the client's identified problems.
- (8) "Family" means related family members, foster parents, domestic partners, and legal guardians.
- (9) "Geriatric nursing assistant (GNA)" means a CNA who has successfully completed the requirements for a GNA set forth in 42 CFR §§483.151—483.156 and COMAR 10.39.01.
- (10) "Home health aide (HHA)" means a CNA who has successfully completed the requirements for certification as a HHA set forth in 42 CFR §484.36 and COMAR 10.39.01.
- (11) "Licensed practical nurse" means an individual licensed to practice licensed practical nursing as defined in Health Occupations Article, §8-301, Annotated Code of Maryland.
- (12) "Medication technician" means an individual who completes a 20-hour course in medication administration approved by the Board and is certified by the Board.
- (13) Model of Nursing Practice.

- (a) "Model of nursing practice" means the policies, procedures, and practice guidelines:
- (i) Established by the facility, which are consistent with this chapter regarding delegation of nursing functions and regulations governing the facility; and
  - (ii) That provide direction to nursing staff on the delivery of care to the client population which the facility serves.
- (b) "Model of nursing practice" may not supersede a delegating nurse's prudent judgment regarding:
- (i) Delegation of a nursing function to a certified nursing assistant, an unlicensed individual, or a medication technician; or
  - (ii) A particular delegated nursing function to that individual or individuals.
- (14) "Nurse" means an individual licensed by the Board as a registered nurse or licensed practical nurse.
- (15) "Pressure ulcer" means a decubitus ulcer stage I through IV, the care for which includes cleaning, applying topical medication, and dressing without packing.
- (16) "Readily available" means, in:
- (a) A structured setting:
    - (i) The delegating nurse is physically present on the unit; and
    - (ii) The nurse may transfer responsibility for the nursing supervision and delegation to another nurse who then becomes the nurse delegating the nursing functions; and
  - (b) Other settings, the delegating nurse is on the premises or else is available by telephone.
- (17) "Registered nurse" means an individual licensed to practice registered nursing as defined in Health Occupations Article, §8-301, Annotated Code of Maryland.
- (18) "Responsibility" means the charge to do something.
- (19) "Routine care" means those activities necessary on a daily basis for the client to gain or maintain a level of functioning.
- (20) "Structured setting" means a hospital, nursing home, long-term care facility, ambulatory care setting, surgicenter, or any other acute or chronic care facility.
- (21) "Supervised group living settings" means assisted living facilities, group homes for juveniles, group homes for emotionally disturbed children, alternative living units for the

developmentally disabled, or any other facility or setting providing supervised living arrangements for groups of unrelated individuals.

(22) "Supervision" means the process of critical watching, directing, and evaluating another's performance.

(23) "Unlicensed individual" means an individual who is not licensed or certified to provide nursing care under Health Occupations Article, Title 8, Annotated Code of Maryland.

(24) Wound.

(a) "Wound" means venous stasis ulcer or ulcers, a dehissed wound, or any other break in the integrity of the full thickness of skin that involves the subcutaneous tissue or fascia.

(b) "Wound" may include tunneling or a sinus tract.

(c) "Wound" does not include an uncomplicated healing surgical wound.

### **.03 Criteria for Delegation.**

A. The nurse may delegate the responsibility to perform a nursing task to an unlicensed individual, a certified nursing assistant, or a medication technician. The delegating nurse retains the accountability for the nursing task.

B. A nursing task delegated by the nurse shall be:

(1) Within the area of responsibility of the nurse delegating the act;

(2) Such that, in the judgment of the nurse, it can be properly and safely performed by the unlicensed individual, certified nursing assistant, or medication technician without jeopardizing the client welfare; and

(3) A task that a reasonable and prudent nurse would find is within the scope of sound nursing judgment.

C. A nursing task delegated by the nurse may not require the unlicensed individual, certified nursing assistant, or medication technician to exercise nursing judgment or intervention except in an emergency situation.

D. When delegating a nursing task to an unlicensed individual, certified nursing assistant, or medication technician the nurse shall:

(1) Make an assessment of the patient's nursing care needs before delegating the task;

(2) Either instruct the unlicensed individual, certified nursing assistant, or medication technician in the delegated task or verify the unlicensed individual's, certified nursing assistant's, or medication technician's competency to perform the nursing task;

(3) Supervise the performance of the delegated nursing task in accordance with Regulation .04 of this chapter;

(4) Be accountable and responsible for the delegated task;

(5) Evaluate the performance of the delegated nursing task; and

(6) Be responsible for assuring accurate documentation of outcomes on the nursing record.

E. The nurse shall be the primary decision maker when delegating a nursing task to an unlicensed individual, certified nursing assistant, or medication technician. Nursing judgment shall be exercised within the context of the employing facility's model of nursing practice which includes a mechanism for:

(1) Identifying those individuals to whom nursing tasks may be delegated;

(2) Reevaluation of the competency of those to whom nursing tasks may be delegated;

(3) Recognizing that the final decision regarding delegation is within the scope of the nurse's professional judgment;

(4) Determining the competency of the nurse to delegate; and

(5) Determining to whom nursing tasks may be delegated, which includes input by nurses employed in the facility.

F. The registered nurse shall assume the role of case manager in delegating nursing tasks, including the administration of medications, only in accordance with Regulation .05G of this chapter in situations where the nurse has thoroughly assessed and documented that:

(1) The client's health care needs are chronic, stable, uncomplicated, routine, and predictable;

(2) The environment is conducive to the delegation of nursing tasks; and

(3) The client is unable to perform his or her own care.

#### **.04 Supervision.**

A. The nurse shall determine the required degree of supervision after an evaluation of appropriate factors including, but not limited to the:

(1) Stability of the condition of the client;

- (2) Training of the individual to whom the nursing task is being delegated;
- (3) Nature of the nursing task being delegated;
- (4) Orientation of the unlicensed individual, certified nursing assistant, or medication technician to the specific patient environment;
- (5) Ability of the unlicensed individual, certified nursing assistant, or medication technician to perform the delegated nursing task in a safe and competent manner; and
- (6) Reevaluation of the client's health status.

B. The delegating nurse shall be readily available when delegating a nursing task to an unlicensed individual, certified nursing assistant, or medication technician.

C. For the client whose health status meets the criteria as stated in Regulation .03F of this chapter, the registered nurse managing the case shall make a supervisory on-site visit to the client at a minimum of every 45 days to:

- (1) Evaluate the client's health status;
- (2) Evaluate the nursing acts to be delegated;
- (3) Determine whether health goals are being met;
- (4) Evaluate the continued competence of the certified nursing assistant, unlicensed individual, or medication technician to perform the delegated nursing task; and
- (5) Evaluate the environment in which the delegated task is performed.

D. For the client whom the registered nurse has determined does not meet the criteria as stated in Regulation .03F of this chapter, the registered nurse shall:

- (1) Make a supervisory on-site visit to the client at least every 2 weeks to evaluate the criteria described in §C of this regulation; and
- (2) Determine whether the:
  - (a) Nursing tasks may be safely delegated in that setting and given the client's clinical status; and
  - (b) Nursing assistant, unlicensed individual, or medication technician is competent to perform the nursing tasks to be delegated.

### **.05 Nursing Functions.**

A. The following nursing functions require nursing knowledge, judgment, and skill and may not be delegated:

- (1) The nursing assessment including, but not limited to, the admission, shift, transfer, or discharge assessment;
- (2) Development of the nursing diagnosis;
- (3) The establishment of the nursing care goal;
- (4) Development of the nursing care plan;
- (5) Evaluation of the client's progress, or lack of progress, toward goal achievement; and
- (6) Any nursing task which requires nursing knowledge, judgment, and skill.

B. The nurse may delegate treatments of a routine nature if:

- (1) The licensed nursing staff of the specific unit of care has identified the function as being routinely performed;
- (2) The specific treatments are performed at a high frequency necessary to retain competency;
- (3) The treatment has an inherently low risk to the client; as determined by weighing the following factors:
  - (a) Type of equipment utilized to perform the function;
  - (b) Nurse staffing ratio that allows for close supervision;
  - (c) Basic educational preparation of the unlicensed individual or certified nursing assistant performing the delegated function; and
  - (d) Knowledge and skill set of the nurse delegating and supervising the delegated function; and
- (4) There is a quality assurance mechanism in place to assure the function is performed safely and client outcomes meet accepted professional nursing standards including, but not limited to:
  - (a) An ongoing formalized documented performance appraisal mechanism designed to assure that unlicensed individual or certified nursing assistant's revalidation of continued competency is a component of the quality assurance mechanism; and
  - (b) Client outcomes meeting accepted professional standards, as reflected by:
    - (i) Infection rates;

(ii) Rates of adverse events;

(iii) Error rates; and

(iv) Patient satisfaction surveys.

C. The nurse may delegate the obtaining of specific information to an unlicensed individual or certified nursing assistant.

D. When implementing the plan of care, the nurse may delegate a nursing task to an unlicensed individual or certified nursing assistant after the nurse has completed a client assessment and when the delegation of that task does not jeopardize the client's welfare.

E. The nurse may delegate the responsibility to perform a nursing task to an unlicensed individual if:

(1) Acceptance of the delegated nursing task does not become a routine part of the unlicensed individual's job duties; or

(2) An unlicensed individual merely provides assistance with activities of daily living unless the client's needs are such that adverse health consequences are predictable.

F. Administration of medication is a nursing function. As such, the nurse retains full responsibility for medication administration.

G. The following activities related to medication administration may not be delegated except as provided in §H of this regulation:

(1) Calculation of any medication dose;

(2) Administration of medications by injection route;

(3) Administration of medications by way of a tube inserted in a cavity of the body; and

(4) Administration of medication by intravenous route.

H. Delegation of Medication Administration.

(1) The administration of medication as listed in §H(3) of this regulation may be delegated to certified medicine aides and medication technicians only in compliance with §H(2) of this regulation and when clients meet the requirements of Regulation .03F or .04D of this chapter in the following situations:

(a) Supervised group living settings;

(b) Supervised or sheltered work settings;



- (c) Independent living settings;
  - (d) Schools;
  - (e) Correctional institutions;
  - (f) Hospice care;
  - (g) Adult medical day care centers; and
  - (h) Child care centers established for children with health or medical conditions or both.
- (2) A nurse may delegate to a medication technician or certified medicine aide under this section when:
- (a) The nurse has provided instruction and direction; and
  - (b) The medication technician or certified medicine aide is on site in the unit of care on a continuing basis to:
    - (i) Monitor the therapeutic effects of the medication;
    - (ii) Observe, record, and report untoward effects of the medication;
    - (iii) Perform monitoring procedures required for each medication;
    - (iv) Observe for changes in the individual client's behavior and clinical status;
    - (v) Record and report the changes observed to the delegating nurse; and
    - (vi) Withhold administration of the medication.
- (3) A nurse may delegate administration of the following medications to a medication technician or a certified medicine aide according to Regulations .03F, .04C, and .05H(1) of this chapter:
- (a) Medication by metered dose inhalant, nebulizer, and oxygen by nasal cannula or mask;
  - (b) Medication by gastrostomy tube or rectal tube if the nurse has calculated the dosage;
  - (c) Oral medication, including:
    - (i) Measuring as prescribed an amount of liquid medication where the nurse has calculated the dose; and
    - (ii) Administering a fraction of a tablet if the nurse has cut the tablet;

- (d) Medication by subcutaneous injection if the nurse has calculated the dose;
- (e) Medication administered by topical route excluding stage III and IV pressure ulcers and wound care;
- (f) Medication administered by suppository route;
- (g) Medication drops administered by routes involving eye, ear, and nose; and
- (h) Where the registered nurse makes an on-site visit at least every 7 days to assess the client status and the performance of the medication technician's or certified medicine aide's administration of topical medication to stage three or four pressure ulcers or wounds.

### **.06 Client Health Teaching and Health Counseling.**

A. The registered nurse shall be accountable and responsible for the development and initiation of the health teaching plan and for health counseling of the client.

B. The nurse shall be accountable and responsible for facilitating and promoting:

(1) Client education; and

(2) Participation of the client and significant others in implementation of health goals.

C. Unlicensed individuals, certified medicine aides, medication technicians, and certified nursing assistants given instruction and direction by the nurse may supplement the health teaching by providing standardized information to the client.

D. The unlicensed individual, certified medicine aide, medication technician, and certified nursing assistant are responsible and accountable for reporting information to the nurse regarding the client's:

(1) Request for information; and

(2) Response to teaching provided by the nurse.

#### Administrative History

*Effective date: October 2, 1989 (16:19 Md. R. 2105)*

Regulations .01—.06 amended as an emergency provision effective February 5, 1992 (19:4 Md. R. 468); emergency status expired August 7, 1992

Regulations .01—.06 amended permanently effective August 8, 1992 (19:11 Md. R. 1015)

Regulations .02—.06 amended effective July 4, 1994 (21:13 Md. R. 1158)

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Regulations .01—.06 repealed and new Regulations .01—.06 adopted effective May 10, 2004 (31:9 Md. R. 712)

Regulation .02B amended effective February 28, 2005 (32:4 Md. R. 411); January 26, 2009 (36:2 Md. R. 101); September 19, 2011 (38:19 Md. R. 1147)

Regulation .03 amended effective June 29, 2009 (36:13 Md. R. 900)

Regulation .04 amended effective January 26, 2009 (36:2 Md. R. 101)

Regulation .04C, D amended effective September 19, 2011 (38:19 Md. R. 1147)

Regulation .05 amended effective February 28, 2005 (32:4 Md. R. 411); January 26, 2009 (36:2 Md. R. 101)

Regulation .05H amended effective September 19, 2011 (38:19 Md. R. 1147)

Regulation .06C, D amended effective January 26, 2009 (36:2 Md. R. 101)