State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

* The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
* Please address questions regarding information on this notice to the agency.
* The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
* The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no: 43829 Date filed: 6/25/2019

State Admin Rule Filing Id: Time filed:

		Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	**R**	156	- 31b	-
Changed to Admin. Code Ref. (R no.):	**R**		-	-

1. **Agency:** Commerce/Division of Occupational and Professional Licensing

Room no.:

Building: Heber M. Wells Building

Street address 1: 160 East 300 South

Street address 2:

City, state, zip: Salt Lake City UT 84111-2316

Mailing address 1: PO Box 146741

Mailing address 2:

City, state, zip: Salt Lake City UT 84114-6741

Contact person(s):

Name:	Phone:	Fax:	E-mail:
Jeff Busjahn	801-530-6789	801-530-6511	jbusjahn@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2. **Title of rule or section** (catchline):

Nurse Practice Act Rule

3. **Type of notice:**

New ___; Amendment XXXX Repeal ___; Repeal and Reenact ___

4. **Purpose of the rule or reason for the change:**

The Board of Nursing recommends these proposed amendments to further define, clarify, and establish certain standards regarding nurse delegation of tasks in accordance with Utah Code Subsections 58-31b-102(15), R156-1-102a(4) and 58-31b-502(9). These proposed amendments are based on extensive collaboration between the Board and multiple industry participants so as to incorporate generally accepted professional standards and the best practices in the industry with respect to nurse delegation.

5. **This change is a response to comments from the Administrative Rules Review Committee.**

No XXX Yes ___

6. **Summary of the rule or change:**

Subsection R156-31b-102(14): This proposed amendment conforms the definition of the "delegator" who may delegate certain tasks to another person to the requirements of Subsections 58-31b-102(15) and 58-31b-502(9) of the Nurse Practice Act, and Section R156-31b-701 of the Nurse Practice Act Rule. Instead of the delegator being defined generically as "a person", the delegator is more specifically defined as "a licensed nurse directly responsible for a patient's care". Subsection R156-31b-102(35): This proposed amendment deletes the citation to Subsection R156-1-102a (4) and instead incorporates the detailed definitions and types of supervision of that subsection. The Board recommends this change to facilitate nurse licensees' understanding of and familiarity with nurse supervision requirements. Subsection R156-31b-701: This proposed amendment: (1) makes numerous non-substantive formatting changes throughout this section to reorganize and renumber the rule for clarity; (2) provides a method in which the delegating nurse can review initial and ongoing competency documentation; (3) provides direction to the delegating nurse to document physical or verbal demonstrations of delegated tasks if the employing facility or agency does not require demonstration of competency or does not provide competency documentation that is satisfactory to the delegator, or if a delegated task falls outside of tasks in which the delegatee has previously shown competency; and (4) removes the word "physician" to provide generalization for the term medical assistant

7. **Aggregate anticipated cost or savings to:**

A) State budget:

Affected: No ___; Yes XXXX

These proposed amendments may indirectly impact state departments who employ nurses as it clarifies the requirements for delegation of duties in nursing, who may delegate and the process for delegation as well as a requirement for documentation of the competency to perform the duties. It is estimated that the proposed rule will almost entirely impact those receiving healthcare in homecare settings. The majority of the healthcare facilities will have delegation practices of patient/resident individualized care as further defined by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and the Centers of Medicare and Medicaid Services (CMS). Therefore, this analysis will focus on Home Health, Hospice and Personal Care Agencies. The NAICS code is 621610. The following are estimates related to the State Budget costs: There are zero state owned agencies in Utah out of a possible 332 agencies (source: DWS Firm Find – February 26, 2019).However, this proposed rule change may result in a slight increase in a State Surveyor's time in reviewing sample number of charts for Home Health, Hospice and Personal Care Agencies. These agencies are surveyed every two to three years. Therefore, the updated Rule could result in an estimated extra 15 minutes per survey to review the delegation. Therefore, $27.08/hr X .25/hr (15 minutes) per surveying nurse X 332 agencies/3 (estimate that each agency is surveyed once every three years) = $749.21 cost for the surveying agency each year.Lastly, there would be a minimal cost to the Division of approximately $75 to print and distribute the rule once the proposed amendment is made effective.

B) Local government:

Affected: No _____ Yes XXXX

These proposed amendments may indirectly impact local departments who employ nurses as it clarifies the requirements for delegation of duties in nursing, who may delegate and the process for delegation as well as a requirement for documentation of the competency to perform the duties. It is estimated that the proposed rule will almost entirely impact those receiving healthcare in homecare settings. The majority of the healthcare facilities will have delegation policies further defined by JCAHO and CMS. Therefore, this analysis will focus on Home Health, Hospice and Personal Care Agencies. The NAICS code is 621610. There are an estimated 3 local government owned agencies in Utah out of a possible 332 healthcare agencies. (DWS Firm Find and Health Facility Licensing Certification and Resident Assessment, February 26, 2019. It is estimated that the average wage rate of a nurse that delegates is $27.08/hr. It is estimated that the 3 county owned agencies impacted could employ 5 nurses per agency and be impacted by the rule change. It is estimated that the time for a nurse delegator to teach a task would be 5 minutes, 2 minutes for the delegator to listen to the delegatee demonstrate appropriate performance of the task and 3 minutes for delegator to document the demonstration in writing. Therefore, the total additional time is estimated to be 10 minutes per delegated task. It is estimated that each nurse would delegate 6 specialized tasks per year since almost all of the delegated tasks would be considered routine care. If an unlicensed aide proves competency in the skill and the nurse is satisfied with this level of competency, then the actual assignment of the aide to a specific patient or multiple similar patients would involve simply a brief discussion about the unique needs of a given patient to whom the aide is assigned. This would be part of the regular assignment process. Additionally, many agencies already have implemented skill checks upon hire and annually thereafter. Additionally, the proposed rule change does not prescribe how the documentation is to be carried out, therefore any impact would vary according to individual business policies. The impact for the Local Government budget would be estimated to be $4.51 per 10 minutes of the nurse's time. This equates to 3 agencies affected X 5 nurses employed per agency X 6 specialized tasks per year X $4.51/task = $405.90 for an annualized cost. An annualized cost per agency is $135.30. It is assumed that the cost per task would increase by 1% per year for inflation/wage increases.

C) Small businesses ("small business" means a business employing fewer than 50 persons)

Affected: No _____; Yes XXXX

These proposed amendments may indirectly impact small business (less than 50 employees) who employ nurses as it clarifies the requirements for delegation of duties in nursing, who may delegate and the process for delegation as well as a requirement for documentation of the competency to perform the duties. It is estimated that the proposed rule will almost entirely impact those receiving healthcare in homecare settings since the majority of the healthcare facilities will have delegation policies further defined by JCAHO and CMS. Therefore, this analysis will focus on Home Health, Hospice and Personal Care Agencies. The NAICS code is 621610. There are an estimated 284 small business (less than 50 employees) owned healthcare agencies in Utah out of a possible 332(DWS Firm Find February 26, 2019). It is estimated that the average wage rate of a nurse that delegates is $27.08/hr. It is estimated that the 284 small businesses (less than 50 employees) impacted could employ 3 nurses/agency and be impacted by the rule change. It is further estimated that the time for a nurse delegator to teach a task would be 5 minutes, 2 minutes for the delegator to listen to the delegatee demonstrate appropriate performance of the task and 3 minutes for delegator to document the demonstration in writing. Therefore, the total additional time is estimated to be 10 minutes per delegated task. It is estimated that each nurse would delegate 6 specialized tasks per year since almost all of the delegated tasks would be considered routine care, if an unlicensed aide proves competency in the skill and the nurse is satisfied with this level of competency, then the actual assignment of the aide to a specific patient or multiple similar patients would involve simply a brief discussion about the unique needs of a given patient to whom the aide is assigned. This would be part of the regular assignment process. Additionally, many agencies have already implemented skill checks upon hire and annually thereafter. Additionally, the proposed rule change does not prescribe how the documentation is to be carried out, therefore any impact would vary according to individual business policies. The impact for the small business (under 50 employees) budget would be estimated to be $4.51 per 10 minutes of the nurse's time. This equates 284 agencies X 3 nurses employed per agency X 6 specialized tasks per year X $4.51/task = $23,055.12 for an annualized cost. An annualized per agency cost would be $81.18. It is assumed that the cost per task would increase by 1% per year for inflation/wage increases.

D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Affected: No XXXXX_____ Yes ___

There are approximately 42,033 licensed nurses in Utah that could potentially be impacted by the proposed amendments, including Licensed Practical Nurses (LPN), Registered Nurses (RN), Certified Nurse Midwifes (CNM), Advanced Practice Registered Nurses (APRN) and Certified Registered Nurse Anesthetists (CRNA). Only 1,317 nurses are projected to be impacted annually. There are approximately 10,903 uncertified and certified nursing assistants, 2,890 home health aides and 8,430 personal care aides within Utah. It is estimated that each delegated act will take 2 minutes for the delegatee to demonstrate appropriate performance of the task to the delegator. A blended wage rate is assumed to be $11.66/hr. Two minutes of an aide's time equates to $0.39. This equates to 1,317 total nurses providing delegated tasks X 6 specialized tasks per year X $0.39/task = $3,081.78 total annualized cost for compliance costs for affected persons (individualized impact). The annualized cost per agency would be $9.28. It is assumed that the cost per task would increase by 1% per year for inflation/wage increases. This proposed rule change is not expected to have any fiscal impact on other persons. There might be a very small cost of processing the additional time by the agency payroll processor linked to overtime, but most agencies utilize computerized timekeeping which would reduce the projected cost to virtually zero.

8. Compliance costs for affected persons:

These proposed amendments are not expected to impose compliance costs on any affected persons except as described above.

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

Small Business (less than 50 employees): These proposed amendments may indirectly impact small businesses who employ nurses as it clarifies the requirements for delegation of duties in nursing, who may delegate, and the process for delegation, as well as a requirement for documentation of the competency to perform the duties. It is estimated that the proposed rule will almost entirely impact those receiving healthcare in homecare settings since the majority of traditional healthcare facilities will have delegation policies further defined by JCAHO and CMS. Therefore, this analysis will focus on home health, hospice and personal care agencies. The NAICS code is 621610. There are an estimated 284 small business-owned healthcare agencies in Utah out of a possible 332 healthcare agencies (DWS Firm Find February 26, 20 19). The impact for small business would result in an annual cost of approximately $23,000. An annualized per healthcare agency cost would be $81. It is assumed that the cost per task would increase by 1% per year for inflation/wage increases.

Non-Small Businesses (50 or more employees:) There are an estimated 42,033 licensed nurses in Utah and an estimated 45 non-small businesses impacted by the rule change. Based upon the foregoing assumptions, the impact for non-small businesses would result in an annual cost of approximately $12,177. An annualized per agency cost would be $270. It is assumed that the cost per task would increase by 1% per year for inflation/wage increases.

B) Name and title of department head commenting on the fiscal impacts:

Francine A. Giani, Executive Director

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

Section 58-31b-101

Subsection 58-1-106(1)(a)

Subsection 58-1-202(1)(a)

11. This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules;*if none, leave blank*):

	First Incorporation	**Second Incorporation**
Official Title of Materials Incorporated (from title page)		
Publisher		
Date Issued		
Issue, or version		

ISBN Number (optional)

ISSN Number (optional)

Cost of Incorporated Reference

Action: Adds, updates, or removes

(If this rule incorporates more than two items by reference, please attach additional pages)

12 **The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy): 08/14/2019

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	**At** (hh:mm AM/PM):	**At** (place):
08/05/2019	9:30 AM	160 East 300 South, Conference Room 475 (4th floor), Salt Lake City, Utah

13 **This rule change may become effective on** (mm/dd/yyyy): 08/21/2019

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

14 **Indexing information -- keywords** (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid"); may not include the name of the agency:

licensing nurses

15 **Attach an RTF document containing the text of this rule change** (filename): R156-31b.pro

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

AGENCY AUTHORIZATION

Agency head or designee, and title:	Mark B. Steinagel, Director	**Date** (mm/dd/yyyy):	06/25/2019

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$749.21 +75 reprint fee = 824.21	$756.70	$764.27
Local Government	$405.90	$409.96	$414.06
Small Businesses	$23,055.12	$23,285.67	$23,518.53
Non-Small Businesses	$12,177	$12,298.77	$12,421.76
Other Person	$3,081.78	$3,112.60	$3,143.73
Total Fiscal Costs:	**$39,544.01**	**$39,863.70**	**$40, 262.35**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$60	$60	$60
Non-Small Businesses	$60	$60	$60
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$60**	**$60**	**$60**
Net Fiscal Benefits:	$-39,544.01	$-39,863.70	$-40,262.35

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There are an estimated 45 non-small businesses (over 50 employees) in Utah out of a possible 332 agencies (DWS Firm Find, February 26, 2019). The NAICS code is 621610. These proposed amendments may indirectly impact non-small businesses (over 50 employees) who employ nurses as it clarifies the requirements for delegation of duties in nursing, who may delegate and the process for delegation as well as a requirement for documentation of the competency to perform the duties. It is estimated that the proposed rule will almost entirely impact those receiving healthcare in homecare settings since the majority of the healthcare facilities will have delegation policies further defined by JCAHO and CMS. Therefore, this analysis will focus on Home Health, Hospice and Personal Care Agency agencies. It is estimated that the average wage rate of a nurse that delegates is $27.08/hr. There are an estimated 42,033 licensed nurses in Utah. It is estimated that the 45 non-small businesses (over 50 employees) impacted could employ 10 nurses/agency and be impacted by the rule change. It is further estimated that the time for

a nurse delegator to teach a task would be 5 minutes, 2 minutes for the delegator to listen to the delegatee demonstrate appropriate performance of the task and 3 minutes for delegator to document the demonstration in writing. Therefore, the total additional time is estimated to be 10 minutes per delegated task. It is estimated that each nurse would delegate 6 specialized tasks per year since almost all of the delegated tasks would be considered routine care, if an unlicensed aide proves competency in the skill and the nurse is satisfied with this level of competency, then the actual assignment of the aide to a specific patient or multiple similar patients would involve simply a brief discussion about the unique needs of a given patient to whom the aide is assigned. This would be part of the regular assignment process. Additionally, many agencies have already implemented skill checks upon hire and annually thereafter. Additionally, the proposed rule change does not prescribe how the documentation is to be carried out, therefore any impact would vary according to individual business policies. The impact for the non-small businesses (over 50 employees) budget would be estimated to be $4.51 per 10 minutes of the nurse's time. This equates to 45 agencies X 10 nurses employed per agency X 6 specialized tasks per year X $4.51/task = $12,177.00 for an annualized cost. An annualized per agency cost would be $270.60. It is assumed that the cost per task would increase by 1% per year for inflation/wage increases.

Include agency head sign-off here. The head of the Department of Commerce, Francine Giani, has reviewed and approved this fiscal analysis.

R156. Commerce, Occupational and Professional Licensing.
R156-31b. Nurse Practice Act Rule.
R156-31b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 31b, as defined or used in this rule:

(1) "Accreditation" means formal recognition and approval of a nurse education program by an accrediting body for nursing education that is approved by the United States Department of Education.

(2) "Administering" means the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person.

(3) "APRN" means advanced practice registered nurse.

(4) "APRN-CRNA" means advanced practice registered nurse with registered nurse anesthetist certification.

(5) "Approved continuing education" means:

(a) continuing education that has been approved by a nationally or internationally recognized approver of professional continuing education for health-related industries;

(b) nursing education courses offered by an approved education program as defined in Subsection R156-31b-102(7);

(c) health-related coursework taken from an educational institution accredited by a regional or national institutional accrediting body recognized by the U.S. Department of Education;

(d) continuing education approved by any state board of nursing; or

(e) training or educational presentations offered by the Division.

(6) "Approved education program" means any nursing education program that meets the standards established in Section 58-31b-601 or Section R156-31b-602.

(7) "Approved re-entry program" means:

(a) a program designed to evaluate nursing competencies for nurses;

(b) approved by a state board of nursing; or

(c) offered by an accredited nursing education program; and

(d) includes a minimum of 150 hours of supervised clinical learning.

(8) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.

(9) "Completed a PN, RN, or APRN pre-licensing program" means graduation from the pre-licensing program, verified by official transcripts showing degree and date of program completion.

(10) "Comprehensive nursing assessment" means:

(a) conducting extensive initial and ongoing data collection:

(i) for individuals, families, groups or communities; and

(ii) addressing anticipated changes in patient conditions as well as emergent changes in patient health status;

(b) recognizing alterations to previous patient conditions;

(c) synthesizing the biological, psychological, spiritual, and social aspects of the patient's condition;

(d) evaluating the impact of nursing care; and

(e) using data generated from the assessments conducted pursuant to this Subsection (a) through (d) to:

(i) make independent decisions regarding patient health care needs;

(ii) plan nursing interventions;

(iii) evaluate any possible need for different interventions; and

(iv) evaluate any possible need to communicate and consult with other health team members.

(11) "Contact hour" in the context of continuing education means 60 minutes, which may include a 10-minute break.

(12) "Delegate" means:

(a) to transfer to another nurse the authority to perform a selected nursing task in a selected situation;

(b) in the course of practice of an APRN who specializes in psychiatric mental health nursing, to transfer to any individual licensed as a mental health therapist selected psychiatric APRN supervisory clinical experiences within generally-accepted industry standards; or

(c) to transfer to an unlicensed person the authority to perform a task that, according to generally-accepted industry standards or law, does not require a nursing assessment as defined in Sections R156-31b-102(10) and ([~~14~~]16).

(13) "Delegatee" means one or more persons assigned by a delegator to act on the delegator's behalf.

(14) "Delegator" means a [~~person~~]licensed nurse directly responsible for a patient's care, who assigns to another licensed or unlicensed person the authority to perform a task on behalf of the [~~person~~]delegator in accordance with Subsection 58-31b-102(15)(g), Subsection R156-31b-102(12), and Section R156-31b-701.

(15)(a) "Disruptive behavior" means conduct, whether verbal or physical, that:

(i) is demeaning, outrageous, or malicious;

(ii) occurs during the process of delivering patient care; and

(iii) places a patient at risk.

(b) "Disruptive behavior" does not include criticism that is offered in good faith with the aim of improving patient care.

(16) "Focused nursing assessment" means an appraisal of a patient's status and situation at hand, including:

(a) verification and evaluation of orders; and

(b) assessment of:

(i) the patient's nursing care needs;

(ii) the complexity and frequency of the required nursing care;

(iii) the stability of the patient; and

(iv) the availability and accessibility of resources, including appropriate equipment, adequate supplies, and other appropriate health care personnel to meet the patient's nursing care needs.

(17) "Foreign nurse education program" means any program that originates or occurs outside of the United States.

(18) "Individualized healthcare plan" or "IHP" means a written document that outlines the provision of student healthcare services intended to achieve specific student outcomes.

(19) "Licensure by equivalency" applies only to the licensed practical nurse and may be warranted if the person seeking licensure:

(a)(i) has, within the two-year period preceding the date of application, successfully completed course work in a registered nurse education program that meets the criteria established in Sections 58-31b-601 and R156-31b-602; and

(ii) has been unsuccessful on the NCLEX-RN at least one time; or

(b)(i) is currently enrolled in an accredited registered nurse education program; and

(ii) has completed course work that is certified by the education program provider as being equivalent to the course work of an ACEN-accredited practical nursing program, as verified by the nursing education program director or administrator.

(20) "LPN" means licensed practical nurse.

(21) "MAC" means medication aide certified.

(22) "Medication" means any prescription or nonprescription drug as defined in Subsections 58-17b-102(24), (37) or (61) of the Pharmacy Practice Act.

(23) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.

(24) "Non-approved education program" means any nurse prelicensing course of study that does not meet the criteria of Section 58-31b-601, including a foreign nurse education program.

(25) "Nurse" means:

(a) an individual licensed under Title 58, Chapter 31b as:

(i) a licensed practical nurse;

(ii) a registered nurse;

(iii) an advanced practice registered nurse; or

(iv) an advanced practice registered nurse-certified registered nurse anesthetist; or

(b) a certified nurse midwife licensed under Title 58, Chapter 44a.

(26) "Other specified health care professionals," as used in Subsection 58-31b-102(15), means an individual, in addition to a registered nurse or a licensed physician, who is permitted to direct the tasks of a licensed practical nurse, and includes:

(a) an advanced practice registered nurse;

(b) a certified nurse midwife;

(c) a chiropractic physician;

(d) a dentist;

(e) an osteopathic physician;

(f) a physician assistant;

(g) a podiatric physician;

(h) an optometrist;

(i) a naturopathic physician; or

(j) a mental health therapist as defined in Subsection 58-60-102(5).

(27) "Patient" means one or more individuals:

(a) who receive medical and/or nursing care; and

(b) to whom a licensee owes a duty of care.

(28) "Patient surrogate" means an individual who has legal authority to act on behalf of a patient when the patient is unable to act or make decisions unaided, including:

(a) a parent;

(b) a foster parent;

(c) a legal guardian; or

(d) a person legally designated as the patient's attorney-in-fact.

(29) "PN" means an unlicensed practical nurse.

(30) "Psychiatric mental health nursing specialty" means an expertise in psychiatric mental health, whether as a clinical nurse specialist or nurse practitioner licensed as an APRN.

(31) "Practica" means working in the nursing field as a student; not exclusive to patient care activities.

(32) "Practitioner" means a person authorized by law to prescribe treatment, medication, or medical devices.

(33) "RN" means a registered nurse.

(34) "School" means any private or public institution of primary or secondary education, including a charter school, pre-school, kindergarten, or special education program.

(35) "Supervision" is [~~as defined in Subsection R156-1-102a(4).~~] defined as the following:

(a) "Direct supervision" and "immediate supervision" mean the supervising licensee is present and available for face-to-face communication with the person being supervised when and where occupational or professional services are being provided.

(b) "Indirect supervision" means the supervising licensee:

(i) has given either written or verbal instructions to the person being supervised;

(ii) is present within the facility in which the person being supervised is providing services; and

(iii) is available to provide immediate face-to-face communication with the person being supervised as necessary.

(c) "General supervision" means that the supervising licensee:

(i) has authorized the work to be performed by the person being supervised;

(ii) is available for consultation with the person being supervised by personal face-to-face contact, or direct voice contact by telephone, radio or some other means, without regard to whether the supervising licensee is located on the same premises as the person being supervised; and

(iii) can provide any necessary consultation within a reasonable period of time and personal contact is routine.

(d) "Supervising licensee" means a licensee who has satisfied any requirements to act as a supervisor and has agreed to provide supervision of an unlicensed individual or a licensee in a classification or licensure status that requires supervision in accordance with the provisions of this chapter.

(36) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b, is further defined in Section R156-31b-502.

R156-31b-701. Delegation of Nursing Tasks in a Non-school Setting.

In accordance with Subsection 58-31b-102([~~14~~]15)(g) and Subsection R156-31b-102(12), the delegation of nursing tasks in a non-school setting is further defined, clarified, or established as follows:

(1)[~~(a) The~~] A delegator retains accountability for the appropriate delegation of tasks and for the nursing care of the patient.

(2) Tasks Appropriate for Delegation - Prior Assessment Required.

([~~b~~]a) [~~The~~]A delegator may not delegate to unlicensed assistive personnel, including a [~~physician's~~]medical assistant, any task requiring the specialized knowledge, judgment, or skill of a licensed nurse.[

~~(c) Before determining which, if any, nursing tasks may be delegated, the delegator shall make a focused nursing assessment of the circumstances.~~

~~(d) A delegator may not delegate a task that is:~~

~~(i) outside the area of the delegator's responsibility;~~

~~(ii) outside the delegator's personal knowledge, skills, or ability; or~~

~~(iii) beyond the ability or competence of the delegatee to perform:~~

~~(A) as personally known by the delegator; and~~

~~(B) as evaluated according to generally accepted nursing practice standards of health, safety, and reasonable prudence.~~

~~(e) In delegating a nursing task, the delegator shall:~~

~~(i) provide instruction and direction necessary to allow the delegatee to safely perform the specific task;~~

~~(ii) provide ongoing appropriate supervision and evaluation of the delegatee who is performing the task;~~

~~(iii) explain the delegation to ensure that the delegatee understands which patient is to be treated, and according to what time frame;~~

~~(iv) instruct the delegatee how to intervene in any foreseeable risks that may be associated with the delegated task;~~

~~(v) if the delegated task is to be performed more than once, establish a system for ongoing monitoring of the delegatee; and~~

~~(vi)(A) evaluate the following factors to determine the degree of supervision required to ensure safe care:~~

~~(I) the stability and condition of the patient;~~

~~(II) the training, capability, and willingness of the delegatee to perform the delegated task;~~

~~(III) the nature of the task being delegated, including the complexity, irreversibility, predictability of outcome, and potential for harm inherent in the task;~~

~~(IV) the proximity and availability to the delegatee of the delegator or other qualified nurse during the time(s) when the task will be performed; and~~

~~(V) any immediate risk to the patient if the task is not carried out; and~~

~~(B) ensure that the delegator or another qualified nurse is readily available either in person or by telecommunication to:~~

~~(I) evaluate the patient's health status;~~

~~(II) evaluate the performance of the delegated task;~~

~~(III) determine whether goals are being met; and~~

~~(IV) determine the appropriateness of continuing delegation of the task.~~

~~(2) Nursing tasks that may be delegated shall meet the following criteria as applied to each specific patient situation:~~

~~(a) be considered routine care for the specific patient;~~

~~(b) pose little potential hazard for the patient;~~

~~(c) be generally expected to produce a predictable outcome for the patient;~~

~~(d) be administered according to a previously developed plan of care; and~~

~~(e) be limited to those tasks that do not inherently involve nursing judgment that cannot be separated from the procedure.~~

~~(3) If the nurse, upon review of the patient's condition, the complexity of the task, the ability of the proposed delegatee, and other criteria established in this Subsection, determines that the proposed delegatee cannot safely provide the requisite care, the nurse shall not delegate the task to such proposed delegatee.~~

~~(4) A delegatee may not:~~

~~(a) further delegate to another person any task delegated to the individual by the delegator; or~~

~~(b) expand the scope of the delegated task without the express permission of the delegator.~~

~~(5) Tasks that, according to the internal policies or practices of a medical facility, are required or allowed to be performed by an unlicensed person shall not be deemed to have been delegated by a licensee.~~]

(b) A delegator may not delegate a task that is:

(i) outside the area of the delegator's responsibility;

(ii) outside the delegator's personal knowledge, skills, or ability; or

(iii) beyond the ability or competence of the delegatee to perform:

(A) as personally known by the delegator; and

(B) as evaluated according to generally accepted nursing practice standards of health, safety, and reasonable prudence.

(c) A nursing task may be delegated if it meets the following criteria, as applied to each specific patient situation:

(i) it is considered routine care for the specific patient;

(ii) it poses little potential hazard for the patient;

(iii) it is generally expected to produce a predictable outcome for the patient;

(iv) it is administered according to a previously developed plan of care; and

(v) it does not inherently involve nursing judgment that cannot be separated from the procedure.

(d) Before determining which, if any, nursing tasks may be delegated, the delegator shall make a focused nursing assessment of the circumstances, and evaluate the following factors to determine the degree of supervision required to ensure safe care:

(i) the stability and condition of the patient;

(ii) the training, capability, and willingness of the delegatee to perform the delegated task;

(iii) the nature of the task being delegated, including the complexity, irreversibility, predictability of outcome, and potential for harm inherent in the task;

(iv) the proximity and availability to the delegatee of the delegator or other qualified nurse during the time(s) when the task will be performed; and

(v) any immediate risk to the patient if the task is not carried out.

(e) If a delegator, upon review of the criteria established in this Subsection, determines that a proposed delegatee cannot safely provide the requisite care, the delegator shall not delegate the task to the proposed delegatee.

(3) Instruction and Demonstration of Competency Prior to Delegation.

(a) In delegating a nursing task, the delegator shall:

(i) provide instruction and direction necessary to allow the delagatee to safely perform the specific task;

(ii) explain the delegation to ensure that the delegatee understands which patient is to be treated, and according to what time frame; and

(iii) instruct the delegatee how to intervene in any foreseeable risks that may be associated with the delegated task.

(b)(i) If the employing facility or agency requires initial and ongoing demonstration of competency of direct patient care tasks, and makes competency documentation available to the delegator, the delegator may use that competency documentation.

(ii) If the employing facility or agency does not require demonstration of competency or does not provide competency documentation that is satisfactory to the delegator, or if a task falls outside tasks in which the proposed delegatee has previously been proven competent, the delegator or qualified educator shall:

(A) require the proposed delegatee to provide to the delegator or qualified educator a physical or verbal demonstration of the delegated task; and

(B) document the observed or spoken demonstration.

(iii) Teaching of a task, demonstration of competency, and documentation may be conducted per individual or in a group training session.

(4) Supervision and Monitoring. During delegation, the delegator shall:

(a) provide ongoing appropriate supervision and evaluation of the delegatee;

(b) ensure that the delegator or another qualified nurse is readily available, either in person or by telecommunication, to:

(i) evaluate the patient's health status;

(ii) evaluate the performance of the delegated task;

(iii) determine whether goals are being met; and

(iv) determine the appropriateness of continuing delegation of the task; and

(c) if the delegated task is to be performed more than once, establish a system for ongoing monitoring of the delegatee.

(5) Further Delegation Prohibited. A delegatee may not:

(a) further delegate to another person any task delegated to the individual by the delegator; or

(b) expand the scope of the delegated task without the express permission of the delegator.

(6) Internal Policies or Practices. Tasks that according to the internal policies or practices of a medical facility are required or allowed to be performed by an unlicensed person, shall not be deemed to have been delegated by a licensee.

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