

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
500 Woodlane Street, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

PROPOSED COPY

CHAPTER FIVE DELEGATION

A. PURPOSE

~~Registered nurses, licensed practical nurses, and licensed psychiatric technician~~ **Licensed** nurses, within the parameters of their education and experience, are responsible for all nursing care that a client receives under their direction. Assessment of the nursing needs of a client, the plan of nursing actions, implementation of the plan, and evaluation of the plan, under the direction of a registered professional nurse, are essential components of nursing practice. Unlicensed personnel may be used to complement the licensed nurse in the performance of nursing functions; but such personnel cannot be used as a substitute for the licensed nurse.

Delegation by **a licensed nurse** ~~registered nurses, licensed practical nurses, and licensed psychiatric technician~~ **nurses must** shall fall within the definitions of Arkansas Code Annotated §17-87-102. Delegation must occur within the framework of the job description of the delegatee and organizational policies and procedures, and must be in compliance with the Arkansas *Nurse Practice Act*. The following sections govern the licensed nurse in delegating and supervising nursing tasks to unlicensed personnel in all settings.

B. CRITERIA FOR DELEGATION

1. Delegation of nursing tasks to unlicensed persons shall comply with the following requirements:
 - a. A licensed nurse delegating the task is responsible for the nursing care given to the client and for the final decision regarding which nursing tasks can be safely delegated.
 - b. A licensed nurse must make an assessment of the client's nursing care needs prior to delegating the nursing task. (Ref. Section C. for exceptions.)
 - c. The nursing task must be one that a reasonable and prudent licensed nurse would assess to be appropriately delegated; would not require the unlicensed person to exercise nursing assessment, judgment, evaluation or teaching skill; and that can be properly and safely performed by the unlicensed person involved without jeopardizing the client's welfare.
 - d. A licensed nurse shall have written procedures available for the proper performance of each task and shall have documentation of the competency of the unlicensed person to whom the task is to be delegated.
 - e. The delegating licensed nurse shall be readily available either in person or by telecommunication except as prohibited by other statute or rule.
 - f. The licensed nurse shall be responsible for documentation of delegated tasks.
 - g. Unlicensed nursing students may work only as unlicensed nursing personnel. They may not represent themselves, or practice, as nursing students except as part of a scheduled clinical learning activity in the curriculum of a Board approved nursing program.
 - h. The licensed nurse shall adequately supervise the performance of delegated nursing tasks in accordance with the requirements of supervision which follow.
2. Supervision: The degree of supervision required shall be determined by the licensed nurse after an evaluation of appropriate factors involved, including, but not limited to, the following:
 - a. The stability of the condition of the client;
 - b. The training and capability of the unlicensed person to whom the nursing task is delegated;
 - c. The nature of the nursing task being delegated; and
 - d. The proximity and availability of a licensed nurse to the unlicensed person when performing the nursing task.

C. SPECIFIC NURSING TASKS WHICH MAY BE DELEGATED WITHOUT PRIOR NURSING ASSESSMENT

By way of example, and not in limitation, the following nursing tasks are ones that are within the scope of sound nursing practice to be delegated, provided the delegation is in compliance with ACA §17-87-102 and the level of supervision required is determined by the nurse.

1. Noninvasive and non-sterile treatments unless otherwise prohibited by Section D. of this Chapter (relating to nursing tasks that may not be routinely delegated);
2. The collecting, reporting, and documentation of data including, but not limited to:

PROPOSED COPY

- a. Vital signs, height, weight, intake and output, urine test, and hematest results;
- b. Changes from baseline data established by the nurse;
- c. Environmental and safety situations;
- d. Client or family comments relating to the client's care; and
- e. Behaviors related to the plan of care;
3. Ambulation, positioning, and turning;
4. Transportation of the client within a facility;
5. Personal hygiene;
6. Feeding, cutting up of food, or placing of meal trays;
7. Socialization activities;
8. Activities of daily living; and
9. Reinforcement of health teaching planned and/or provided by the registered nurse.

D. NURSING TASKS THAT MAY NOT BE ROUTINELY DELEGATED

1. Nursing tasks not included in Section C. are not usually within the scope of sound nursing judgment to delegate and may be delegated only in accordance with subsection 2. of this section.
2. The nursing tasks of this section may be delegated to an unlicensed person only:
 - a. Under circumstances where a reasonable and prudent licensed nurse would find that the delegation does not jeopardize the client's safety and/or welfare;
 - b. If, in the judgment of the licensed nurse, the unlicensed person has the appropriate knowledge and skills to perform the nursing task(s) in a safe and effective manner;
 - c. If the licensed nurse delegating the task is directly responsible for the nursing care given to the client;
 - d. If the agency, facility, or institution, employing unlicensed personnel, follows a current protocol for the instruction and training of unlicensed personnel performing nursing tasks under this subsection; and that said protocol is developed by and taught under the supervision of registered nurses currently employed in the facility, and includes:
 - (1) The manner in which the instruction addresses the complexity of the delegated task;
 - (2) The manner in which the unlicensed person demonstrates competency of the delegated task;
 - (3) The mechanism for reevaluation of the competency; and
 - (4) An established mechanism for identifying those individuals to whom nursing tasks under this subsection may be delegated; and
 - e. If the protocol recognizes that the final decision as to what nursing tasks can be safely delegated in any specific situation is within the specific scope of the nurse's professional judgment.

E. NURSING TASKS THAT SHALL NOT BE DELEGATED

By way of example, and not in limitation, the following are nursing tasks that are not within the scope of sound nursing judgment to delegate:

1. Physical, psychological, and social assessment which requires nursing judgment, intervention, referral, or follow-up;
2. Formulation of the plan of nursing care and evaluation of the client's response to the care rendered;
3. Specific tasks involved in the implementation of the plan of care which require nursing judgment or intervention;
4. The responsibility and accountability for client health teaching and health counseling which promotes client education and involves the client's significant others in accomplishing health goals; and
5. Administration of any medications or intravenous therapy, including blood or blood products except as allowed by ASBN *Rules* Chapter 8 for Medication Assistant-Certified and by ASBN School Nurse Roles and Responsibilities Practice Guidelines.
6. Receiving or transmitting verbal or telephone orders;
7. Registered nurse practitioners and advanced practice nurses shall not delegate to unlicensed ancillary staff the calling in of prescriptions to the pharmacy.

F. TRANSFERENCE OF DELEGATED NURSING TASKS

It is the responsibility of the licensed nurse to assess each client prior to delegation of a nursing task and determine that the unlicensed person has the competence to perform the nursing task in that client's situation.

PROPOSED COPY

1. The licensed nurse shall not transfer delegated tasks to other clients under the care of the unlicensed person.
2. In delegating personal care, a licensed nurse is not required to assess each client; but must periodically assess the competence of the caregiver in those activities.

G. EXCLUSIONS

These sections shall not be construed to apply to:

1. The gratuitous nursing care of the sick by family or friends;
2. The furnishing of nursing care where treatment is by prayer or spiritual means alone;
3. Acts done by persons licensed by any board or agency of the State of Arkansas if such acts are authorized by such licensing statutes;
4. Nursing tasks performed by nursing students enrolled in Board approved nursing programs while practicing under the direct supervision of qualified faculty or preceptors;
5. The instruction and/or supervision of licensed nurses by registered professional nurses in the proper performance of tasks as a part of a state approved training/education course designed to prepare persons to obtain certification;
6. Nursing tasks performed by paramedic/emergency medical technician students enrolled in State approved programs while practicing under the direct supervision of qualified faculty or preceptors;
7. The performance in the school setting of nursing procedures necessary for students to achieve activities of daily living as cited in the Education of the Handicapped Act, 20 United States Code 1400-1485, and which are routinely performed by the student or the student's family in the home setting.
8. The acts of unlicensed persons responding to an emergency. This exclusion shall not be construed as permitting licensed nurses to delegate routinely to unlicensed persons.
9. Health maintenance activities performed by a designated care aide in the home as defined in the Consumer Directed Care Act of 2005, ACA §17-87-103 (11).
10. The drawing and measuring of glucagon or insulin by a trained employee of a city or county detention center as defined in ACA 17-87-103(14).
11. The administration of an emergency dose of medication to a public-school student who is diagnosed with an adrenal insufficiency by trained volunteer public school personnel.
12. The administration of a seizure rescue medication, medication prescribed to treat seizure disorder symptoms or a manual dose of a prescribed electrical stimulation using a vagus nerve stimulator magnet.

H. CONSUMER DIRECTED CARE

1. Health maintenance activities which are routinely performed by the family in the home setting may be provided by a designated care aide for a competent adult at the direction of the adult or for a minor child or incompetent adult at the direction of a caretaker.
2. Caretaker means a person who is directly and personally involved in providing care for a minor child or incompetent adult, and the parent, foster parent, family member, friend, or legal guardian of the minor child or incompetent adult receiving care.
3. Designated care aide means the person hired ~~by the competent adult or caretaker~~ to provide care for the competent adult, minor child, or incompetent adult.
4. Health maintenance activities mean activities that the minor child or adult is unable to perform for himself or herself including oral medications.
5. The attending physician, advanced practice registered nurse, or registered nurse must determine a designated care aide under the direction of a competent adult or caretaker can safely perform the activity in the minor child's or adult's home.
6. Home shall not include nursing home, assisted living facility, residential care facility, an intermediate care facility, or hospice care facility.
7. Health maintenance activities that are not exempted by the Consumer Directed Care Act of 2005 include:
 - a. Physical, psychological, and social assessment which requires nursing judgment, intervention, referral, or follow-up;
 - b. Formulation of the plan of nursing care and evaluation of the client's response to the care rendered;
 - c. Tasks that require nursing judgment or intervention;
 - d. Teaching and health counseling;

ARKANSAS STATE BOARD OF NURSING RULES

PROPOSED COPY

- e. Administration of any injectable medications (intradermal, subcutaneous, intramuscular, intravenous, intraosseous, or any other form of injection) or intravenous therapy.
- f. Receiving or transmitting verbal or telephone orders.
- 8. The designated care aide must demonstrate the ability to safely perform the health maintenance activity.

Effective: December 1, 2008

Amended: February 15, 2022

Amended: ??

CLEAN COPY

CHAPTER FIVE DELEGATION

A. PURPOSE

Licensed nurses, within the parameters of their education and experience, are responsible for all nursing care that a client receives under their direction. Assessment of the nursing needs of a client, the plan of nursing actions, implementation of the plan, and evaluation of the plan, under the direction of a registered professional nurse, are essential components of nursing practice. Unlicensed personnel may be used to complement the licensed nurse in the performance of nursing functions; but such personnel cannot be used as a substitute for the licensed nurse.

Delegation by a licensed nurse shall fall within the definitions of Arkansas Code Annotated §17-87-102. Delegation must occur within the framework of the job description of the delegatee and organizational policies and procedures, and must be in compliance with the Arkansas *Nurse Practice Act*. The following sections govern the licensed nurse in delegating and supervising nursing tasks to unlicensed personnel in all settings.

B. CRITERIA FOR DELEGATION

1. Delegation of nursing tasks to unlicensed persons shall comply with the following requirements:
 - a. A licensed nurse delegating the task is responsible for the nursing care given to the client and for the final decision regarding which nursing tasks can be safely delegated.
 - b. A licensed nurse must make an assessment of the client's nursing care needs prior to delegating the nursing task. (Ref. Section C. for exceptions.)
 - c. The nursing task must be one that a reasonable and prudent licensed nurse would assess to be appropriately delegated; would not require the unlicensed person to exercise nursing assessment, judgment, evaluation or teaching skill; and that can be properly and safely performed by the unlicensed person involved without jeopardizing the client's welfare.
 - d. A licensed nurse shall have written procedures available for the proper performance of each task and shall have documentation of the competency of the unlicensed person to whom the task is to be delegated.
 - e. The delegating licensed nurse shall be readily available either in person or by telecommunication except as prohibited by other statute or rule.
 - f. The licensed nurse shall be responsible for documentation of delegated tasks.
 - g. Unlicensed nursing students may work only as unlicensed nursing personnel. They may not represent themselves, or practice, as nursing students except as part of a scheduled clinical learning activity in the curriculum of a Board approved nursing program.
 - h. The licensed nurse shall adequately supervise the performance of delegated nursing tasks in accordance with the requirements of supervision which follow.
2. Supervision: The degree of supervision required shall be determined by the licensed nurse after an evaluation of appropriate factors involved, including, but not limited to, the following:
 - a. The stability of the condition of the client;
 - b. The training and capability of the unlicensed person to whom the nursing task is delegated;
 - c. The nature of the nursing task being delegated; and
 - d. The proximity and availability of a licensed nurse to the unlicensed person when performing the nursing task.

C. SPECIFIC NURSING TASKS WHICH MAY BE DELEGATED WITHOUT PRIOR NURSING ASSESSMENT

By way of example, and not in limitation, the following nursing tasks are ones that are within the scope of sound nursing practice to be delegated, provided the delegation is in compliance with ACA §17-87-102 and the level of supervision required is determined by the nurse.

1. Noninvasive and non-sterile treatments unless otherwise prohibited by Section D. of this Chapter (relating to nursing tasks that may not be routinely delegated);
2. The collecting, reporting, and documentation of data including, but not limited to:
 - a. Vital signs, height, weight, intake and output, urine test, and hematest results;
 - b. Changes from baseline data established by the nurse;

CLEAN COPY

- c. Environmental and safety situations;
- d. Client or family comments relating to the client's care; and
- e. Behaviors related to the plan of care;
- 3. Ambulation, positioning, and turning;
- 4. Transportation of the client within a facility;
- 5. Personal hygiene;
- 6. Feeding, cutting up of food, or placing of meal trays;
- 7. Socialization activities;
- 8. Activities of daily living; and
- 9. Reinforcement of health teaching planned and/or provided by the registered nurse.

D. NURSING TASKS THAT MAY NOT BE ROUTINELY DELEGATED

- 1. Nursing tasks not included in Section C. are not usually within the scope of sound nursing judgment to delegate and may be delegated only in accordance with subsection 2. of this section.
- 2. The nursing tasks of this section may be delegated to an unlicensed person only:
 - a. Under circumstances where a reasonable and prudent licensed nurse would find that the delegation does not jeopardize the client's safety and/or welfare;
 - b. If, in the judgment of the licensed nurse, the unlicensed person has the appropriate knowledge and skills to perform the nursing task(s) in a safe and effective manner;
 - c. If the licensed nurse delegating the task is directly responsible for the nursing care given to the client;
 - d. If the agency, facility, or institution, employing unlicensed personnel, follows a current protocol for the instruction and training of unlicensed personnel performing nursing tasks under this subsection; and that said protocol is developed by and taught under the supervision of registered nurses currently employed in the facility, and includes:
 - (1) The manner in which the instruction addresses the complexity of the delegated task;
 - (2) The manner in which the unlicensed person demonstrates competency of the delegated task;
 - (3) The mechanism for reevaluation of the competency; and
 - (4) An established mechanism for identifying those individuals to whom nursing tasks under this subsection may be delegated; and
 - e. If the protocol recognizes that the final decision as to what nursing tasks can be safely delegated in any specific situation is within the specific scope of the nurse's professional judgment.

E. NURSING TASKS THAT SHALL NOT BE DELEGATED

By way of example, and not in limitation, the following are nursing tasks that are not within the scope of sound nursing judgment to delegate:

- 1. Physical, psychological, and social assessment which requires nursing judgment, intervention, referral, or follow-up;
- 2. Formulation of the plan of nursing care and evaluation of the client's response to the care rendered;
- 3. Specific tasks involved in the implementation of the plan of care which require nursing judgment or intervention;
- 4. The responsibility and accountability for client health teaching and health counseling which promotes client education and involves the client's significant others in accomplishing health goals; and
- 5. Administration of any medications or intravenous therapy, including blood or blood products except as allowed by ASBN *Rules* Chapter 8 for Medication Assistant-Certified and by ASBN School Nurse Roles and Responsibilities Practice Guidelines.
- 6. Receiving or transmitting verbal or telephone orders;
- 7. Registered nurse practitioners and advanced practice nurses shall not delegate to unlicensed ancillary staff the calling in of prescriptions to the pharmacy.

F. TRANSFERENCE OF DELEGATED NURSING TASKS

It is the responsibility of the licensed nurse to assess each client prior to delegation of a nursing task and determine that the unlicensed person has the competence to perform the nursing task in that client's situation.

- 1. The licensed nurse shall not transfer delegated tasks to other clients under the care of the unlicensed person.
- 2. In delegating personal care, a licensed nurse is not required to assess each client; but must periodically assess the competence of the caregiver in those activities.

CLEAN COPY

G. EXCLUSIONS

These sections shall not be construed to apply to:

1. The gratuitous nursing care of the sick by family or friends;
2. The furnishing of nursing care where treatment is by prayer or spiritual means alone;
3. Acts done by persons licensed by any board or agency of the State of Arkansas if such acts are authorized by such licensing statutes;
4. Nursing tasks performed by nursing students enrolled in Board approved nursing programs while practicing under the direct supervision of qualified faculty or preceptors;
5. The instruction and/or supervision of licensed nurses by registered professional nurses in the proper performance of tasks as a part of a state approved training/education course designed to prepare persons to obtain certification;
6. Nursing tasks performed by paramedic/emergency medical technician students enrolled in State approved programs while practicing under the direct supervision of qualified faculty or preceptors;
7. The performance in the school setting of nursing procedures necessary for students to achieve activities of daily living as cited in the Education of the Handicapped Act, 20 United States Code 1400-1485, and which are routinely performed by the student or the student's family in the home setting.
8. The acts of unlicensed persons responding to an emergency. This exclusion shall not be construed as permitting licensed nurses to delegate routinely to unlicensed persons.
9. Health maintenance activities performed by a designated care aide in the home as defined in the Consumer Directed Care Act of 2005, ACA §17-87-103 (11).
10. The drawing and measuring of glucagon or insulin by a trained employee of a city or county detention center as defined in ACA 17-87-103(14).
11. The administration of an emergency dose of medication to a public-school student who is diagnosed with an adrenal insufficiency by trained volunteer public school personnel.
12. The administration of a seizure rescue medication, medication prescribed to treat seizure disorder symptoms or a manual dose of a prescribed electrical stimulation using a vagus nerve stimulator magnet.

H. CONSUMER DIRECTED CARE

1. Health maintenance activities which are routinely performed by the family in the home setting may be provided by a designated care aide for a competent adult at the direction of the adult or for a minor child or incompetent adult at the direction of a caretaker.
2. Caretaker means a person who is directly and personally involved in providing care for a minor child or incompetent adult, and the parent, foster parent, family member, friend, or legal guardian of the minor child or incompetent adult receiving care.
3. Designated care aide means the person hired to provide care for the competent adult, minor child, or incompetent adult.
4. Health maintenance activities mean activities that the minor child or adult is unable to perform for himself or herself including oral medications.
5. The attending physician, advanced practice registered nurse, or registered nurse must determine a designated care aide under the direction of a competent adult or caretaker can safely perform the activity in the minor child's or adult's home.
6. Home shall not include nursing home, assisted living facility, residential care facility, an intermediate care facility, or hospice care facility.
7. Health maintenance activities that are not exempted by the Consumer Directed Care Act of 2005 include:
 - a. Physical, psychological, and social assessment which requires nursing judgment, intervention, referral, or follow-up;
 - b. Formulation of the plan of nursing care and evaluation of the client's response to the care rendered;
 - c. Tasks that require nursing judgment or intervention;
 - d. Teaching and health counseling;
 - e. Administration of any injectable medications (intradermal, subcutaneous, intramuscular, intravenous, intraosseous, or any other form of injection) or intravenous therapy.
 - f. Receiving or transmitting verbal or telephone orders.

CLEAN COPY

8. The designated care aide must demonstrate the ability to safely perform the health maintenance activity.

Effective: December 1, 2008
Amended: February 15, 2022; 2023