



# Harney District Hospital

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March 8, 2023

Dear Chair Nosse, Vice-Chair Nelson, Vice-Chair Goodwin and members of the Behavioral Health and Healthcare Committee

Thank you for scheduling a hearing for HB 3096 yesterday and for allowing us to testify. We also appreciate the opportunity to meet with many of you during our visit here to Salem.

Following the hearing we reviewed OAR 851-045-0060 which defines the scope of practice for RN's in the State of Oregon. According to this OAR, an RN may assign to "unregulated assistive persons" (UAP) work the UAP is authorized to perform within the setting and that the UAP possesses the competency to perform safely. It also states that an RN shall provide clinical supervision to UAP's to whom an assignment has been made. In an interpretive statement from the OSBN, examples of UAP's include Medical Assistants (MA), Certified Medical Assistants, Registered Medical Assistants (RMA), Emergency Department Technicians, Labor and Delivery Technicians, etc. (see attached documents for reference).

After meeting with Paige Spence, Director of Government Relations, she is committed to have follow up discussion with the ONA.

Given this additional information we respectfully request that HB 3096 be advanced to a work session after friendly amendments are drafted. Thank you again for all your support.

Dan Grigg, CEO

Elaine Wulff, CNO

Dan Winn, Director of Nursing

## Oregon State Board of Nursing Interpretive Statement

### “Delegation Process” and “Assignment and Supervision”

#### Purpose

The Board has received reports about confusion regarding the extent of the RN’s responsibilities when employing the act of *Delegation Process* and the RN’s responsibilities when employing the act of *Assignment and Supervision*. The outcome of both activities results in a health care team member assisting in implementation of the RN’s plan of care for a client (i.e., a patient, a recipient of nursing services).

The confusion usually relates to the responsibilities and accountability of the RN involved in either nursing activity. This interpretive statement has been developed to guide the licensee to determine when delegation process or when assignment would be the correct scope of practice authority to implement when working with health care team members.

#### Delegation Process

Delegation process has a specific meaning in Oregon’s Nurse Practice Act (NPA). It is the process utilized by an RN to authorize an unregulated assistive person (UAP) to perform nursing procedure for a client for which the RN retains accountability for the outcome.

Standards for RN delegation process are located in Chapter 851 Division 47 of the NPA and may only be applied by the RN in a setting that does not exist primarily for the purposes of providing nursing or medical services, but where nursing services could be required intermittently. These settings include adult foster homes, assisted living facilities, child foster homes, schools and twenty-four hour residential care facilities. These are settings where federal or state regulations do not require twenty-four hour-a-day licensed nurse staffing and where nursing services are provided incidental to the setting.

When the RN engages in delegation process in a community-based setting, the RN is responsible to adhere to the requirements of Division 45 of the practice act and has a duty of care to the individual client. This means that delegation process occurs after the RN’s completion of an assessment of the client with the application of clinical judgment to available assessment data; the RN’s analysis of assessment data to determine actual or potential problem(s) or issue(s); the RN’s prioritization of identified problems and identification expected outcomes related to the problems; and the development of a plan of care for the client that identifies strategies to assist the client to attain expected outcomes.

When the RN engages in delegation process to authorize a specific UAP to perform a nursing procedure for a client, the RN is individually responsible for the education and competency validation of the UAP to whom the responsibility of performing a client’s nursing procedure may be delegated. This means the RN is responsible to assess and determine the knowledge and abilities of the UAP related to performance of the procedure; assess of the safety of the care environment where the procedure is to be performed for the client; to teach the performance of the procedure to the UAP and evaluate the UAP’s learning outcomes; to provide the UAP with written instructions for performance of the procedure on the client that are appropriate to the client’s level of care and to the knowledge base of the UAP; and, to directly observe, evaluate and validate the competencies of the UAP in their safe performance of the procedure on the client. The safety and well-being of the client shall be the central focus of all RN decisions and actions regarding delegation of a nursing procedure to a UAP.

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As the community-based practice setting is not required by federal regulation or state statute to employ nursing staff 24/7, the individual RN who engages in delegation process in such a setting holds the sole responsibility to provide ongoing and regularly scheduled assessment of the client's condition, and ongoing and regularly scheduled evaluation and observation of the UAP's continued competency in their performance of the nursing procedure on the client. These ongoing and regularly scheduled RN delegation process responsibilities, which occur *in addition to* nursing practice requirements set forth in Division 45, provide for the RN to arrive at a prudent clinical decision regarding the continued appropriateness of a specific UAP's authorization to perform a specific procedure for a specific client.

The Board interprets the RN scope of practice authority of *delegation process* to apply in community-based settings as defined in OAR 851-06. In these settings the individual RN holds sole responsibility for the education and competency validation of the UAP to whom the performance of a chronically needed and regularly scheduled nursing procedure for a stable client is delegated. The performance of the nursing procedure may be delegated to a UAP by the RN as nursing services are provided incidental to the setting and the RN is not statutorily mandated to be in same environment as the client. The RN who delegates maintains responsibility and accountability for the delegation of the nursing procedure, retains accountability for the outcome of the procedure delegated, and retains a duty of care to the client.

### **Assignment and Supervision**

The Board further interprets that in situations where a regularly scheduled RN works alongside other licensed nurses and assistive personnel throughout their assigned shift, the nursing scope of practice authority is *assignment and supervision*. OAR 851-06 defines the term *assign* as “...directing and distributing, within a given work period, the work that each staff member is already authorized by license or certification and organizational position description to perform.”

When an RN is practicing with another RN or LPN who is a care team member, and the activity or procedure to be performed falls within nursing scope of practice, then that activity or procedure is *work that the other licensed nurse staff member is already authorized to perform* and thus may be assigned by the RN to the other nurse. This would include clinical direction by the RN to the LPN for the LPN to further assign the performance of interventions within a client's plan to other health care team members as established in Division 45 of the NPA.

When an RN is practicing with a certified nursing assistant 1 (CNA 1), certified nursing assistant 2 (CNA 2), or certified medication aide (CMA) health care team member, the RN is limited to assigning only those activities that are:

- Listed in OAR 851-063 as an *authorized duty* for the certificate holder, and
- Expressly allowed for performance by the certificate holder in the work place.

While an employer can determine which of the listed OAR 851-063 authorized duties the certificate holder may perform in the work setting, an employer cannot add duties beyond those listed in OAR 851-063.

It is those authorized duties identified in OAR 851-063 which are allowed in the work place that becomes the work that the CNA 1, CNA 2, or CMA staff member *is already authorized to perform* and thus may be assigned by the RN. It is the RN's responsibility to know which of the duties listed in OAR 851-063 the employer has approved to be performed by the CNA 1, by the CNA 2, and by the CMA in the work setting.

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When the RN is practicing with a care team member whose role or position within the organization does not require health-related licensure or certification by the state of Oregon, that care team member is recognized by the RN as an *unregulated employee* or UAP staff member. When the activity to be performed is within the UAP's position description, and there is documented education and current competency validation of the UAP having been done by the organization employing both the RN and the UAP staff member, then that activity is *work that the UAP is already authorized to perform* and thus may be assigned to the UAP by the RN. UAP staff members include, but are not limited to, those in the following organizational job positions: Medical Assistant (MA), Certified Medical Assistant, Registered Medical Assistant (RMA), Emergency Department Technician, Labor and Delivery Technician, etc.

It is important to note that there may be a situation when a person who holds state of Oregon-issued health-related licensure or certification is hired into a position where their license or certificate does not apply. This person in their current position (where their license or certificate does not apply), is recognized by the RN as an UAP staff member. Examples of this type of situation include: the person employed as an Emergency Department Technician and who happens to hold licensure as an Emergency Medical Technician (EMT), Advanced EMT (AEMT), EMT-Intermediate (EMT-I) or a Paramedic. As the scope of practice for these state-regulated emergency responders is limited to *the pre-hospital environment* per OAR 847-035-0030 (1), their scope as an emergency responder *does not extend to the in-hospital environment*. This means that the person who holds an EMT, AEMT, EMT-I, or Paramedic license and works in a technician type or other organizational position, is *not* working under their EMT/Paramedic license and scope. This person is considered an UAP staff member for the purposes of this interpretive statement.

It is the responsibility of the organization employing both the RN and the UAP to assure that their staff is educated and competency validated to perform the responsibilities of their position within the organization, not the individual RN assigning the activity or procedure.

It is the responsibility of the RN to know the activities or procedures that UAP staff members are authorized by the employer to perform in the setting. This means knowing which activities or procedures that the UAP has been deemed competent to perform through the employing-organization's competency validation process, which activities that may be performed by persons working under the UAP's position description and are supported by organizational policy.

The RN is also responsible to determine if a client's condition is appropriate for an activity to be assigned to the UAP to perform for a client. Additionally, since the RN supervises the UAP in their performance of an assigned activity within the RN's care assignment, the RN must assure that the UAP's performance and documentation of the assigned activity is appropriate to the activity being performed which includes reporting any concerns related to the client's condition.

### **Frequently Asked Questions**

1. **Q:** We have emergency department techs working in our Emergency Department who are EMTs and Paramedics. As the RN, can I assign them activities contained in the orders that I have signed off?

**A:** If the employing organization has identified that the activities in question are within the Emergency Department Technician's position description, and there has been demonstrated/documented competency

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(based upon the employer's requirements for competency demonstration), and you determine that the client's condition is appropriate for the UAP staff member to perform the task, then yes.

2. **Q:** What does it mean "the client's condition is appropriate"?

**A:** It is always the responsibility of the RN to determine whether a UAP staff member's skills match the needs of the client. Example: If the client has a history of difficult IV starts, the RN must determine who the best care team member is to successfully complete the procedure. Sometimes it will be the RN, sometimes it may be a UAP who has more experience. Another example: If a client's blood pressure is of concern, it would be a more prudent decision by the RN to obtain the client's blood pressure measurement directly while collecting and evaluating other assessment data related to the blood pressure, the client's condition and stability instead of sending in a UAP staff member to collect and report the client's bold pressure measurement.

3. **Q:** Can I decline to delegate on the basis of not wanting anyone else to work under my license?

**A:** Before your question is answered, please note that the phrase "working under my license" is a misnomer. Your Oregon RN license grants you, and you alone, the privilege to practice registered nursing in Oregon. In fact, it would be conduct derogatory to the standards of nursing to let anyone use your license for any purpose.

As an RN, you hold sole responsibility and accountability for the decision to authorize a specific UAP to perform a nursing procedure for a specific client. This also means that when application of your clinical judgment results in the clinical decision that the specific UAP is not safe or competent to perform the procedure for the client, you have a legal obligation to protect your client and not delegate to the UAP. Remember, the safety and well-being of the client is the central focus of all RN decisions and actions regarding delegation of a nursing procedure to a UAP.

### References:

National Council of State Boards of Nursing (2016). National guidelines for nursing delegation. *Journal of Nursing Regulation*, 7(1), p 5-14.

Oregon's Nurse Practice Act.

Oregon Secretary of State (October 13, 2018). Chapter 847 Division 035 Emergency Medical Services Providers and Supervising Physicians.

**Authority for Approval:** ORS 678

**History of Document:**

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*The Oregon State Board of Nursing (OSBN) is authorized by Oregon Revised Statutes Chapter 678 to exercise general supervision over the practice of nursing in Oregon to include regulation of nursing licensure, education, and practice in order to assure that the citizens of Oregon receive safe and effective care. The OSBN further interprets statute and rule and issues opinions in the form of policies and interpretive statements, which are advisory in nature and used as guidelines for safe nursing practice.*

# Board of Nursing

## Chapter 851

### Division 45

### STANDARDS AND SCOPE OF PRACTICE FOR THE LICENSED PRACTICAL NURSE AND REGISTERED NURSE

#### 851-045-0060

#### Scope of Practice Standards for Registered Nurses

(1) The Board recognizes that the scope of practice for the RN encompasses a variety of roles, including, but not limited to:

- (a) Provision of client care;
- (b) Clinical direction and clinical supervision of others in the provision of care;
- (c) Development and implementation of health care policy;
- (d) Consultation in the practice of nursing;
- (e) Nursing administration;
- (f) Nursing education;
- (g) Case management;
- (h) Nursing research;
- (i) Teaching health care providers and prospective health care providers;
- (j) Nursing Informatics; and
- (k) Specialization as an NP, CRNA, or CNS.

(2) Standards related to the RN's responsibility for ethical practice, accountability for services provided, and competency. The RN shall:

- (a) Base RN practice on current and evolving nursing science, other sciences, and the humanities;
- (b) Be knowledgeable of the professional nursing practice and performance standards and adhere to those standards;
- (c) Be knowledgeable of the Oregon statutes and regulations governing RN practice and practice within those legal boundaries;
- (d) Demonstrate honesty, integrity and professionalism in the practice of registered nursing;
- (e) Be accountable for individual RN actions;
- (f) Maintain competency in one's RN practice role;
- (g) Maintain documentation of the method that competency was acquired and maintained;
- (h) Accept only RN assignments that are within one's individual scope of practice;
- (i) Recognize and respect a client's autonomy, dignity and choice;
- (j) Accept responsibility for notifying employer of an ethical objection to the provision of a specific nursing intervention;

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- (k) Ensure unsafe nursing practices are addressed immediately;
  - (l) Ensure unsafe practice and practice conditions are reported to the appropriate regulatory agency; and
  - (m) Protect confidential client information and only share information in a manner that is consistent with current law.
- (3) Standards related to the RN's responsibility for nursing practice. Through the application of scientific evidence, practice experience, and nursing judgment, the RN shall:
- (a) Conduct comprehensive assessments by:
    - (A) Collecting data from observations, examinations, interviews, and records in an accurate and timely manner as appropriate to the client's needs and context of care;
    - (B) Validating data by utilizing available resources, including interactions with the client, with health care team members, and by accessing scientific literature;
    - (C) Distinguishing abnormal from normal data, sorting, selecting, recording, evaluating, synthesizing and communicating the data;
    - (D) Identifying potentially inaccurate, incomplete or missing data and reporting data discrepancies as appropriate for the context of care;
    - (E) Identifying signs and symptoms of deviation from current health status;
    - (F) Anticipating changes in client status; and
    - (G) Evaluating the data to identify problems or risks presented by the client.
  - (b) Develop reasoned conclusions that identify client problems or risks;
  - (c) Develop a client-centered plan of care based on analysis of the client's problems or risks that:
    - (A) Establishes priorities in the plan of care;
    - (B) Identifies measurable outcomes; and
    - (C) Includes nursing interventions to address prioritized diagnostic statements or reasoned conclusions.
  - (d) Implement the plan of care;
  - (e) Evaluate client responses to nursing interventions and progress toward identified outcomes; and
  - (f) Update and modify the plan of care based on ongoing client assessment and evaluation of data.
- (4) Standards related to the RN's responsibility to assign and supervise care.
- (a) The RN may assign to the RN, nursing interventions that fall within RN scope of practice and that the licensee receiving the assignment possesses the competency to perform safely.
  - (b) The RN may assign to the LPN nursing interventions that fall within LPN scope of practice and that the licensee receiving the assignment possesses the competency to perform safely.
  - (c) The RN may assign to the CNA and CMA authorized duties identified within Chapter 851 Division 63 that the certificate holder possesses the competency to perform safely.
  - (d) The RN may assign to the UAP work the UAP is authorized to perform within the setting and that the UAP possesses the competency to perform safely.
  - (e) The RN who has agreed to act as a nurse intern's supervisor must:
    - (A) Only assign to the nurse intern those plan of care interventions that are identified as nurse intern authorized functions within Chapter 851 Division 041; and,
    - (B) Provide direct supervision of the nurse intern to whom an assignment has been made.
  - (f) The RN shall ensure the assignment matches the client's service needs with qualified personnel and available resources.
  - (g) The RN shall provide clinical supervision of the RN, LPN, CNA, CMA, and UAP to whom an assignment has been made:
    - (A) Provide clinical supervision per the context of care;
    - (B) Ensure documentation of supervision activities per the context of the assignment; and

- (C) Evaluate the effectiveness of the assignment.
- (h) The RN shall revise the assignment as indicated by client outcome data, availability of qualified personnel and available resources.
- (i) Prior to making an assignment, the RN is responsible to know the duties, functions, activities or procedures the recipient of the assignment is authorized to perform within the setting.
- (5) Standards related to the RN's responsibility for client advocacy. The RN shall:
- (a) Advocate for the client's right to receive appropriate care, including client-centered care and end-of-life care, that is respectful of the client's needs, choices and dignity;
  - (b) Intervene on behalf of the client to identify changes in health status, to protect, promote and optimize health, and to alleviate suffering;
  - (c) Advocate for the client's right to receive appropriate and accurate information;
  - (d) Communicate client's choices, concerns and special needs to other members of the health care team; and
  - (e) Protect the client's right to participate or decline to participate in research.
- (6) Standards related to the RN's responsibility for collaboration with the health care team. The RN shall:
- (a) Function as a member of the health care team;
  - (b) Collaborate in the development, implementation and evaluation of integrated plans of care as appropriate to the context of care;
  - (c) Demonstrate a knowledge of health care team members' roles;
  - (d) Communicate with health care team members regarding the plan of care; and
  - (e) Make referrals in a timely manner and ensure follow-up on referrals.
- (7) Standards related to the RN's responsibility for the environment of care. The RN shall:
- (a) Promote and advocate for an environment conducive to safety; and
  - (b) Identify safety and environmental concerns, take action to address those concerns and report as needed.
- (8) Standards related to the RN's responsibility for leadership and quality of care. The RN shall:
- (a) Identify factors that affect quality of nursing service, health services delivery, and client care, and develop quality improvement standards and processes;
  - (b) Interpret and evaluate policies, protocols, and guidelines that are pertinent to nursing practice and to health services delivery;
  - (c) Develop and implement policies, protocols, and guidelines that are pertinent to the practice of nursing and to health services delivery;
  - (d) Participate in quality improvement initiatives and activities within the practice setting; and
  - (e) Participate in the development and mentoring of new licensees, nursing colleagues, students and members of the health care team.
- (9) Standards related to the RN's responsibility for health promotion and teaching. The RN shall develop, implement and evaluate evidence-based teaching plans that address the client's learning needs, readiness to learn and ability to learn. This includes:
- (a) Client health promotion and health education;
  - (b) Teaching a UAP how to administer injectable emergency medications as provided in ORS 433.800 to 433.830;
  - (c) Teaching a UAP how to administer naloxone as authorized by ORS 689.681;
  - (d) Teaching school personnel how to administer premeasured doses of epinephrine as provided in ORS 339.869; and
  - (e) Teaching a UAP how to administer noninjectable medications to a client in a community-based setting.
- (10) Standards related to the RN's responsibility for cultural responsiveness. The RN shall:
- (a) Apply a broad knowledge and awareness of cultural diversity; and



(b) Recognize and respect the cultural values, beliefs, and customs of the client.

(11) Standards related to the RN in the role of registered nurse first assistant (RNFA) in surgery.

(a) The RN who accepts an assignment to practice in the role of RNFA shall have successfully completed an RNFA program that meets the Association of Perioperative Nurses standards for the RN first assistant programs;

(b) Intraoperatively, the RNFA shall practice at the direction of the surgeon and not concurrently function in any non-RNFA practice role; and

(c) The RNFA shall practice under the direct supervision of the surgeon who is on site in the unit of care and not otherwise engaged in any other uninterruptible procedure or activity.

(12) Pursuant to 678.038, an RN who is employed by a public or private school, or by an education service district or a local public health authority as defined in ORS 431.003 to provide nursing services at a public or private school, may accept an order from a physician licensed to practice medicine in another state or territory of the United States if the order is related to the care or treatment of a student who has been enrolled at the school for not more than 90 days.

**Statutory/Other Authority:** ORS 678.150 & HB 4003 2022

**Statutes/Other Implemented:** ORS 678.150 & 678.010

**History:**

[BN 16-2022, amend filed 12/27/2022, effective 01/01/2023](#)

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BN 8-2017, f. 7-7-17, cert. ef. 8-1-17

BN 4-2008, f. & cert. ef. 6-24-08

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