R156. Commerce, Occupational and Professional Licensing.
R156-31b-101. Title.

This rule is known as the "Nurse Practice Act Rule".


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(8)(10) and (14)(16).
(13) "Delegator" means a licensed nurse directly responsible for a patient’s care who assigns to another unlicensed person the authority to perform a task on behalf of the delegator.
(14) "Delegator" means a person who assigns to another the authority to perform a task on behalf of the person.
(15-14)(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.
(16-15) "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.
(17-16) "Foreign nurse education program" means any program that originates or occurs outside of the United States.
(18-17) "Individualized healthcare plan" or "IHP" means a
written document that outlines the provision of student healthcare services intended to achieve specific student outcomes.

(18) "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.

(19) "LPN" means licensed practical nurse.

(20) "MAC" means medication aide certified.

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

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

(23) "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.

(24) "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.

(25) "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).

(26) "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.
"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.

"PN" means an unlicensed practical nurse.

"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.

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

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

"RN" means a registered nurse.

"School" means any private or public institution of primary or secondary education, including a charter school, preschool, kindergarten, or special education program.

"Supervision" is as defined in Subsection R156-1-102a(4). "Supervision" is 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.

"Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b is further defined in Section R156-31b-502.
Delegation of Nursing Tasks in a Non-school Setting.

In accordance with Subsection 58-31b-102(14)(15)(g), the delegation of nursing tasks is further defined, clarified, or established as follows:

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

(b) The 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 timeframe;

(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.
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.

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.

(1) Accountability. The delegator retains accountability for the appropriate delegation of tasks and for the nursing care of the patient.

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

   (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) Nursing tasks that may be delegated shall meet the following criteria as applied to each specific patient situation:
       (i) be considered routine care for the specific patient;
       (ii) pose little potential hazard for the patient;
       (iii) be generally expected to produce a predictable outcome for the patient;
       (iv) be administered according to a previously developed plan of care; and
       (v) be limited to those tasks that do 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
(v) any immediate risk to the patient if the task is not carried out.

(e) 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.

(3) Delegation. In delegating a nursing task, the delegator shall:
   (a) provide instruction and direction necessary to allow the delegatee to safely perform the specific task;
   (b) explain the delegation to ensure that the delegatee understands which patient is to be treated, and according to what time frame;
   (c) instruct the delegatee how to intervene in any foreseeable risks that may be associated with the delegated task;
   (d) (i) If the employing facility or agency requires initial and ongoing demonstration of competency of direct patient care tasks, the competency documentation may be made available to the delegating nurse.
   (ii) If the employing facility or agency does not require demonstration of competency or if a delegated task falls outside tasks in which the delegatee has previously been proven competent, the delegating nurse or qualified educator shall require a physical or verbal demonstration of the delegated task and shall document the observed or spoken demonstration. The teaching of the task, demonstration of competency, and documentation can either be per individual or in a group training session.
   (e) (d) during delegation:
        (i) provide ongoing appropriate supervision and evaluation of the delegatee;
        (ii) ensure that the delegator or another qualified nurse is readily available either in person or by telecommunication to:
            (A) evaluate the patient's health status;
            (B) evaluate the performance of the delegated task;
            (C) determine whether goals are being met; and
            (D) determine the appropriateness of continuing delegation of the task; and
        (iii) if the delegated task is to be performed more than once, establish a system for ongoing monitoring of the delegatee.

(4) No Further Delegation. 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) **Internal Policies.** 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.