

PROPOSED
REGULATIONS OF THE BOARD OF NURSING

18 VAC 90-20-10 et seq.

PART V.
DISCIPLINARY PROVISIONS.

18 VAC 90-20-300. Disciplinary provisions.

- A. The board has the authority to deny, revoke or suspend a license issued, or to otherwise discipline a licensee upon proof that the licensee has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:
1. Fraud or deceit shall mean, but shall not be limited to:
 - a. Filing false credentials;
 - b. Falsely representing facts on an application for initial license, reinstatement or renewal of a license; or
 - c. Giving or receiving assistance in writing the licensing examination.
 2. Unprofessional conduct shall mean, but shall not be limited to:
 - a. Performing acts beyond the limits of the practice of professional or practical nursing as defined in Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia, or as provided by §§ 54.1-2901 and 54.1-2957 of the Code of Virginia;
 - b. Assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained;

- c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;
- d. Employing or assigning unqualified persons to perform functions that require a licensed practitioner of nursing;
- e. Falsifying or otherwise altering patient or employer records;
- f. Abusing, neglecting or abandoning patients or clients.
- g. Practice of a clinical nurse specialist beyond that defined in 18 VAC 90-20-290;
- h. Representing oneself as or performing acts constituting the practice of clinical nurse specialist unless so registered by the board; or
- i. Delegating nursing tasks to an unlicensed person in violation of the provisions of 18 VAC 90-20-420 et seq.

B. Any sanction imposed on the registered nurse license of a clinical nurse specialist shall have the same effect on the clinical nurse specialist registration.

PART IX.

DELEGATION OF NURSING TASKS AND PROCEDURES.

18 VAC 90-20-420. Definitions.

“Delegation” means the authorization by a registered nurse to an unlicensed person to perform selected nursing tasks and procedures in accordance with 18 VAC 90-20-420 et. seq.

“Supervision” means guidance or direction of a delegated nursing task or procedure by a qualified, registered nurse who provides periodic observation and evaluation of the performance of the task and who is accessible to the unlicensed person.

“Unlicensed person” means an appropriately trained individual, regardless of title, who receives compensation, who functions in a complementary or assistive role to the registered nurse in providing direct patient care or carrying out common nursing tasks and procedures, and who is responsible and accountable for the performance of such tasks and procedures. With the exception of certified nurse aides, this shall not include anyone licensed or certified by a health regulatory board who is practicing within his recognized scope of practice.

18 VAC 90-20-430. Criteria for delegation.

A. Delegation of nursing tasks and procedures shall only occur in accordance with the plan for delegation adopted by the entity responsible for client care. The delegation plan shall comply with provisions of this chapter and shall provide:

1. An assessment of the client population to be served;
2. Analysis and identification of nursing care needs and priorities;
3. Establishment of organizational standards to provide for sufficient supervision which assures safe nursing care to meet the needs of the clients in their specific settings;
4. Communication of the delegation plan to the staff;
5. Identification of the educational and training requirements for unlicensed persons and documentation of their competencies; and

6. Provision of resources for appropriate delegation in accordance with 18 VAC 90-20-420 et. seq.

B. Delegation shall be made only if all of the following criteria are met:

1. In the judgment of the delegating nurse, the task or procedure can be properly and safely performed by the unlicensed person and the delegation does not jeopardize the health, safety and welfare of the client.
2. The delegating nurse retains responsibility and accountability for nursing care of the client, including nursing assessment, planning, evaluation, documentation and supervision.
3. Delegated tasks and procedures are within the knowledge, area of responsibility and skills of the delegating nurse.
4. Delegated tasks and procedures are communicated on a client specific basis to an unlicensed person with clear, specific instructions for performance of activities, potential complications, and expected results.
5. The person to whom a nursing task has been delegated is clearly identified to the client as an unlicensed person by a nametag worn while giving client care, and by personal communication by the delegating nurse when necessary.

C. Delegated tasks and procedures may not be reassigned by unlicensed personnel.

D. Nursing tasks shall only be delegated after an assessment is performed according to provisions of 18 VAC 90-20-440.

18 VAC 90-20-440. Assessment required prior to delegation.

Prior to delegation of nursing tasks and procedures, the delegating nurse shall make an assessment of the client and unlicensed person as follows:

1. The delegating nurse shall assess the clinical status and stability of the client's condition, shall determine the type, complexity and frequency of the nursing care needed and shall delegate only those tasks which:
 - a. Do not require the exercise of independent nursing judgment;
 - b. Do not require complex observations or critical decisions with respect to the nursing task or procedure;
 - c. Frequently reoccur in the routine care of the client or group of clients;
 - d. Do not require repeated performance of nursing assessments;
 - e. Utilize a standard procedure in which the tasks or procedures can be performed according to exact, unchanging directions; and
 - f. Have predictable results and for which the consequences of performing the task or procedures improperly are minimal and not life-threatening.

2. The delegating nurse shall also assess the training, skills and experience of the unlicensed person and shall verify the competency of the unlicensed person in order to determine which tasks are appropriate for that unlicensed person and the method of supervision required.

18 VAC 90-20-450. Supervision of delegated tasks.

A. The delegating nurse shall determine the method and frequency of supervision based on factors to include, but not be limited to:

1. The stability and condition of the client;
2. The experience and competency of the unlicensed person;
3. The nature of the tasks or procedures being delegated; and
4. The proximity and availability of the registered nurse to the unlicensed person when the nursing tasks will be performed.

B. In the event that the delegating nurse is not available, the delegation shall either be terminated or delegation authority shall be transferred by the delegating nurse to another registered nurse who shall supervise all nursing tasks delegated to the unlicensed person, provided the registered nurse meets the requirements of subdivision 3 of subsection B of 18 VAC 90-20-430.

C. Supervision shall include but not be limited to:

1. Monitoring the performance of delegated tasks;
2. Evaluating the outcome for the client;
3. Ensuring appropriate documentation; and
4. Being accessible for consultation and intervention.

D. Based on an on-going assessment as described in 18 VAC 90-20-440, the delegating nurse may determine that delegation of some or all of the tasks and procedures is no longer appropriate.

18 VAC 90-20-460. Nursing tasks that shall not be delegated.

A. Nursing tasks that shall not be delegated are those which are inappropriate for a specific, unlicensed person to perform on a specific patient after an assessment is conducted as provided in 18 VAC 90-20-440.

B. Nursing tasks that shall not be delegated to any unlicensed person are:

1. Activities involving nursing assessment, problem identification, and outcome evaluation which require independent nursing judgment;
2. Counseling or teaching except for activities related to promoting independence in personal care and daily living;
3. Coordination and management of care involving collaboration, consultation and referral;
4. Emergency and non-emergency triage.
5. Administration of medications except as specifically permitted by § 54.1-3400 et seq. of the Code of Virginia (The Virginia Drug Control Act).