

OKLAHOMA BOARD OF NURSING
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Delegation of Nursing Functions to Unlicensed Persons

- I. Purpose: To provide guidance to licensed nurses who may be delegating nursing functions to unlicensed personnel by establishing criteria for delegation of tasks and for identifying nursing tasks inappropriate for delegation.
- II. Definitions:
- A. Delegating means entrusting the performance of selected nursing duties to individuals qualified, competent and legally able to perform such duties. [OAC 485:10-1-2]
 - B. Supervising means providing guidance by a qualified nurse for the accomplishment of the nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing a task or activity. [OAC 485:10-1-2]
 - C. Unlicensed Person means a trained, responsible individual other than a licensed nurse, who functions in a complementary role to the licensed nurse in providing direct patient care or carrying out common nursing tasks to a level of competence and safety that meets the objectives of the training.
- III. Policy:
- A. Licensed nurses (Advanced Practice Registered Nurse/Registered Nurse/Licensed Practical Nurse) within the scope of their practice are responsible for all nursing care that a patient receives under their direction. Determining the nursing needs of a patient, the plan of nursing actions, implementation of the plan, and evaluation of the plan 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.
 - B. Delegation by licensed nurses must fall within their respective scope of practice as defined in 59 O.S. §567.1, *et seq.* Said delegation must occur within the framework of the job description of the delegatee, organizational policies and organizational procedures. In addition, the delegation must be in compliance with the Oklahoma Nursing Practice Act. The following sections govern the licensed nurse in delegating and supervising nursing tasks to unlicensed personnel.
 - C. General Criteria for Delegation: Delegation of nursing tasks to unlicensed persons shall comply with the following requirements:

1. The licensed nurse delegating the tasks is responsible for the nursing care given to the patient. The licensed nurse must use professional judgment to determine whether the nursing task can be delegated safely in the specific situation;
 2. The licensed nurse must make a determination of the patient's nursing care needs prior to delegating the nursing task;
 3. 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 skills; and, can be properly and safely performed by the unlicensed person involved without jeopardizing the patient's welfare;
 4. The unlicensed person shall have knowledge and skill to perform the task, and documented competencies on file with the employer. Written procedures shall be made available for the proper performance of each task; and
 5. The licensed nurse shall adequately supervise the performance of the delegated nursing task in accordance with the requirements of supervision as found in 59 O.S. §567.1, *et seq.*
- D. 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:
1. stability of the condition of the patient;
 2. training and capability of the unlicensed person to whom the nursing task is delegated;
 3. nature of the nursing task being delegated; and
 4. proximity and availability of a licensed nurse to the unlicensed person when performing the nursing task.
- E. Delegation of Nursing Tasks: By way of example, and not in limitation, the following nursing tasks may be considered within the scope of nursing practice to be delegated, and may be delegated provided the delegation is in compliance with 59 O.S. §567.1, *et seq.*
1. Nursing tasks that may be delegated are those which do not require nursing assessment, judgment, evaluation and teaching during implementation; such as,
 - a. the collecting, reporting, and documentation of simple data; and
 - b. tasks which meet or assist the patient in meeting basic human needs, including, but not limited to: nutrition, hydration, mobility, comfort, elimination, socialization, rest and hygiene.
 2. The Five Rights of Delegation provide an additional resource to facilitate decisions about delegation, in accordance with the *Joint Statement on Delegation American Nurses Association (ANA) and the National Council of State Boards of Nursing (NCSBN)*, as listed below:

- a. **Right Task:** One that is delegable for a specific patient.
 - b. **Right Circumstances:** Appropriate patient setting, available resources, and other relevant factors considered.
 - c. **Right Person:** Right person is delegating the right task to the right person to be performed on the right person.
 - d. **Right Direction/Communication:** Clear, concise description of the task, including its objective, limits and expectations.
 - e. **Right Supervision and Evaluation:** Appropriate monitoring, evaluation, intervention, as needed, and feedback.
- F. Nursing Tasks That May 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. Nursing tasks which require nursing assessment, judgment, evaluation and teaching during implementation; such as,
 - 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 patient's response to the care provided;
 - c. administration of medications except as authorized by state and/or federal regulations.
- G. Transference of Delegated Nursing Tasks: It is the responsibility of the licensed nurse to assess each patient prior to delegation of a nursing task and determine that the unlicensed person has the competency to perform the nursing task in that patient's situation.
- H. The nurse and unlicensed person must function within the policies of the employing institution.

IV. Selected References

National Council of State Boards of Nursing (2005). *Working with others: A position paper*.
https://www.ncsbn.org/Working_with_Others.pdf

Oklahoma Attorney General Opinion 2015-76A.
[https://domino.oag.ok.gov/oagweb.nsf/a04cdf96201b5ef3862572b4007b9753/9788834c947ab78486257ee00056870d/\\$FILE/2015-76a.pdf](https://domino.oag.ok.gov/oagweb.nsf/a04cdf96201b5ef3862572b4007b9753/9788834c947ab78486257ee00056870d/$FILE/2015-76a.pdf)

Joint Statement on Delegation American Nurses Association (ANA) and National Council of State Boards of Nursing (NCSBN) (2006). Retrieved January 23, 2019, from:
https://www.ncsbn.org/Delegation_joint_statement_NCSBN-ANA.pdf

V. Regulatory Authority

59 O.S. §567.1, *et. seq.*, O.A.C. 485:10-1-2 and O.A.C. 485:10-11-1(b)(4)(B)



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2015-76A

Kim Glazier, Executive Director
Oklahoma Board of Nursing
2915 N. Classen Blvd., Ste. 524
Oklahoma City, Oklahoma 73106

October 15, 2015

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Board of Nursing intends to take with respect to guidelines on delegation of nursing tasks to non-licensed persons. The current guidelines omit any mention of advanced practice registered nurses. The proposed action is to include them in the guidelines, thereby clarifying that they may not delegate nursing tasks to unlicensed persons without clear legal authority.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2014, §§ 567.1–567.20, defines the practice of nursing for each type of nursing license, including the tasks nurses must carry out, 59 O.S.Supp.2011, § 567.3a(3), (4), (5). Further, “[n]o person shall practice or offer to practice registered nursing, practical nursing, or advanced practice nursing in this state unless the person” complies with the Act by, for example, obtaining a license. *See id.* § 567.14(A). Thus, nurses may only delegate tasks to unlicensed persons consistent with standards of the nursing profession and the law of unlicensed practice when legal authority exists to do so—if, for example, an act is not part of the practice of nursing or, if it is, a statute nonetheless allows it to be delegated. The Board’s guidelines clarify and explain these requirements to licensees, and the amendment seeks to ensure advanced practice nurses understand that the same rules apply to them. The statutes do not make a distinction on this score between advanced practice nurses and other nurses.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Board of Nursing has adequate support for the conclusion that this action advances the State of Oklahoma’s policy to protect the public health, safety, and welfare.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", is written over a horizontal line.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA