

**CRITERIA FOR DETERMINING
SCOPE OF PRACTICE FOR LICENSED NURSES
AND
GUIDELINES FOR DETERMINING ACTS
THAT MAY BE DELEGATED OR ASSIGNED
BY LICENSED NURSES**

Revised by:
The West Virginia Board of Examiners
for Registered Professional Nurses
and
The West Virginia State Board of Examiners
for Licensed Practical Nurses

June 15, 2005

INTRODUCTION

The intent of this document is to present a process to determine acts appropriate to nursing at various levels, and acts appropriate for delegation to the licensed practical nurse, as well as to those acts appropriate for assignment to unlicensed assistive personnel. Individuals must consult the law, applicable rules and Board position statements in making a practice decision. Related position statements are included in the Appendix of this document. Additional law, rules or position statements may be developed after the publication of this document. The nurse must assure that current publications are referenced when using the Models in this publication.

Changes in health care delivery are occurring in health care organizations throughout West Virginia and the nation. These changes could lead to role confusion. In view of the mandates of the West Virginia Board of Examiners for Registered Professional Nurses and the West Virginia State Board of Examiners for Licensed Practical Nurses to act in the best interest of public safety and health, the respective boards support professional collaboration to deliver competent care and treatment of the client in a safe, professional and cost effective manner.

The guidelines contained in this document provide comprehensive criteria and examples for use in the decision making process required to determine acts that are appropriate to nursing at various levels, and acts appropriate for delegation to the licensed practical nurse as well as to those acts appropriate for assignment to unlicensed assistive personnel. The guidelines, however, do not have the force and effect of law except as provided through the Legal Standards of Practice, WV 19 CSR10 and WV 10 CSR 3.

“Many nurses would like a “yes” or “no” answer to questions about the delegation of nursing practice, however, in most cases it is not that simple. In reality, the answer to most questions is “it depends”. It depends upon the complexity of the task to be delegated. It depends upon the care needs of the client, as assessed by the registered professional nurse. It depends upon the educational preparation, skills, and ability of the licensed practical nurse or unlicensed person to whom the task is to be delegated/assigned. And, it depends upon the availability and accessibility of essential resources including supervision, while the task is being performed. **Nursing judgment is the essential element in every delegation or assignment decision.**”¹

Licensees are expected to read this entire document then refer back to the portions that will assist in making a final decision. Thus, this document is best used when an individual has the time to review all related information so the foundation for decision making is present when a quick decision is required.

1 “Nursing Standards & Delegation: A Guide to Ohio Board of Nursing Rules”, Ohio Board of Nursing, April 1, 2001

DEFINITIONS

Accountability	Being responsible or answerable for actions or inactions of self or others in the context of delegation or assignment.
Advanced Practice Nurse	A registered professional nurse practicing nursing at a level which requires substantial theoretical knowledge in a specialized area of nursing practice and proficient clinical utilization of the knowledge in implementing the nursing process. The competencies of specialists include but are not limited to the ability to assess, conceptualize, diagnose, analyze, plan, implement, and evaluate complex problems related to health.
Assignment	Designating nursing activities to be performed by another nurse or nursing assistive personnel that are consistent with his/her scope of practice (licensed person) or role (unlicensed person). (NCSBN, 2004)
Competence	Possessing verifiable knowledge and skill to perform an activity or task safely and effectively.
Delegation	Transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation. (NCSBN, 2004)
Licensed Practical Nurse	“Practical Nursing” means the performance for compensation of selected nursing acts in the care of the ill, injured or infirm under the direction of a registered professional nurse or licensed physician or licensed dentist, and not requiring the substantial specialized skill, judgment and knowledge required in professional nursing. (Code of WV §30-7A-1)
Registered Professional Nurse	“Registered professional nursing” shall mean the performance for compensation of any service requiring substantial specialized judgment and skill based on knowledge and application of principles of nursing derived from biological, physical and social sciences, such as responsible supervision of a patient requiring skill in observation of symptoms and reactions and the accurate recording of the facts, or the supervision and teaching of other persons with respect to such principles of nursing, or in the administration of medications and treatments as prescribed by a licensed physician or a licensed dentist, or the application of such nursing procedures as involve understanding of cause and effect in order to safeguard life and health of a patient and others. (Code of WV §30-7-1)

Responsible	Liabile to legal review or in the case of fault to penalties; able to answer for one's conduct or obligation; able to choose for one's self right from wrong.
Unlicensed Assistive Personnel (UAP)	Any unlicensed person, regardless of title, to whom nursing tasks are delegated or assigned.

AGENCY REFERENCES

There are a variety of agencies that have laws and standards that directly effect the practice of nursing and health care. Some of the most commonly referenced agencies are provided herein.

OHFLAC Office of Health Facility Licensure and Certification; a division of the West Virginia Department of Health and Human Resources responsible for promulgation of Rules regulating various types of health care facilities.

Web site: www.wvdhhr.org/ohflac/ Phone: 304-558-0050

NCSBN National Council for State Boards of Nursing is the national association providing assistance to nursing regulatory boards. This association authors many regulatory related documents and research. This association has also developed a paper on Delegation.

Web site: www.ncsbn.org Phone: 312-525-3600

BOM Board of Medicine regulates the practice of medical doctors, podiatrists and physician assistants.

Web site: www.wvdhhr.org/wvbom/ Phone: 304-558-2921

Nurse Aide Registry The state agency responsible for the regulation of certified nurse aides and the abuse registry.

Web site: www.wvdhhr.org/ohflac/NurseAide/
Phone: 304-558-0688

WVNA West Virginia Nurses Association (WVNA) is the West Virginia chapter of the American Nurses Association (ANA). WVNA and the Boards have worked together in developing the "Accepting and Rejecting an Assignment" document.

Web site: www.wvnurses.org Phone: 304-342-1169

ANA American Nurses Association is the national professional organization for nurses. This association has developed many standards of practice for nursing including the Code of Ethics.

Web site: www.nursingworld.org

CRITERIA FOR DETERMINING SCOPE OF PRACTICE FOR THE LICENSED NURSE

You may use the process explained below to determine, on an individual basis, if a specific activity or task is within the scope of practice for a registered professional nurse or a licensed practical nurse.

I. DEFINE THE ISSUE

Clearly define the activity or task to be performed. Steps essential in this process Include:

- A. **CLARIFICATION OF THE ISSUE:** What is the issue or problem? Gather facts that may influence the decision. Are there written policies and procedures available that relate to this act? Is this a new expectation or just new to you? What is the decision to be made and where, (in what setting or organization), will it take place? Has the issue been discussed previously?
- B. **ASSESSMENT OF SKILLS AND KNOWLEDGE:** What skills and knowledge are required? Do you possess those skills? Is your competence documented? Who is available to assist you who has that skill and knowledge? Is that person accessible to you?
- C. **IDENTIFICATION OF OPTIONS:** What are possible solutions? What are the risks? What are the implications of your decision: How serious are the consequences? Should you choose to perform an act, you are responsible for performing it accurately and safely.

II. REVIEW EXISTING LAWS, POLICIES, AND STANDARDS OF NURSING PRACTICE

Once the problem has been clearly defined, review existing laws, policies, and standards of nursing practice:

- A. Definitions of nursing practice (§30-7-1.b) or advanced nursing practice (19 CSR 7) and the Legal Standards of Practice for the Registered Professional Nurse (19 CSR 10). (**Definitions, page 3 & Appendix F, pages 30-33**)
- B. Definition of practice for the licensed practical nurse (§30-7A-1.a) and Legal Standards of Practice for the Licensed Practical Nurse (10 CSR 3). (**Definitions, page 3 & Appendix G, pages 34-36**)
- C. Medication Administration by Unlicensed Personnel (WV Code §16-50-1 et.seq.) (***Appendix I, pages 42-47**)

- D. School Nurse Law and Rules
- E. Dialysis Technician Law and Rules
- F. Agency Accreditation Standards
- G. National Council of State Boards of Nursing (NCSBN)
- H. Office of Health Facility Licensure and Certification (OHFLAC)
- I. Standards of practice of a national nursing specialty organization.
- J. Positive and conclusive data in nursing literature and supported by nursing research
- K. Established policy and procedures of employing facility or agency, as long as the policy and procedures are not in conflict with the law or rules.

Following a review of these items ask yourself the following questions:

- A. Is the act expressly addressed in existing law or rules and regulations for your licensure category? Is the activity or task consistent with the scope of practice for a registered professional nurse or a licensed practical nurse?
- B. Is the activity or task within the accepted standards of care? Would a reasonable and prudent nurse with similar training and experience perform the activity under similar circumstances?

III. MAKING THE DECISION

After defining the issue and reviewing significant materials, a decision must be made. To facilitate this process, ask yourself the following questions:

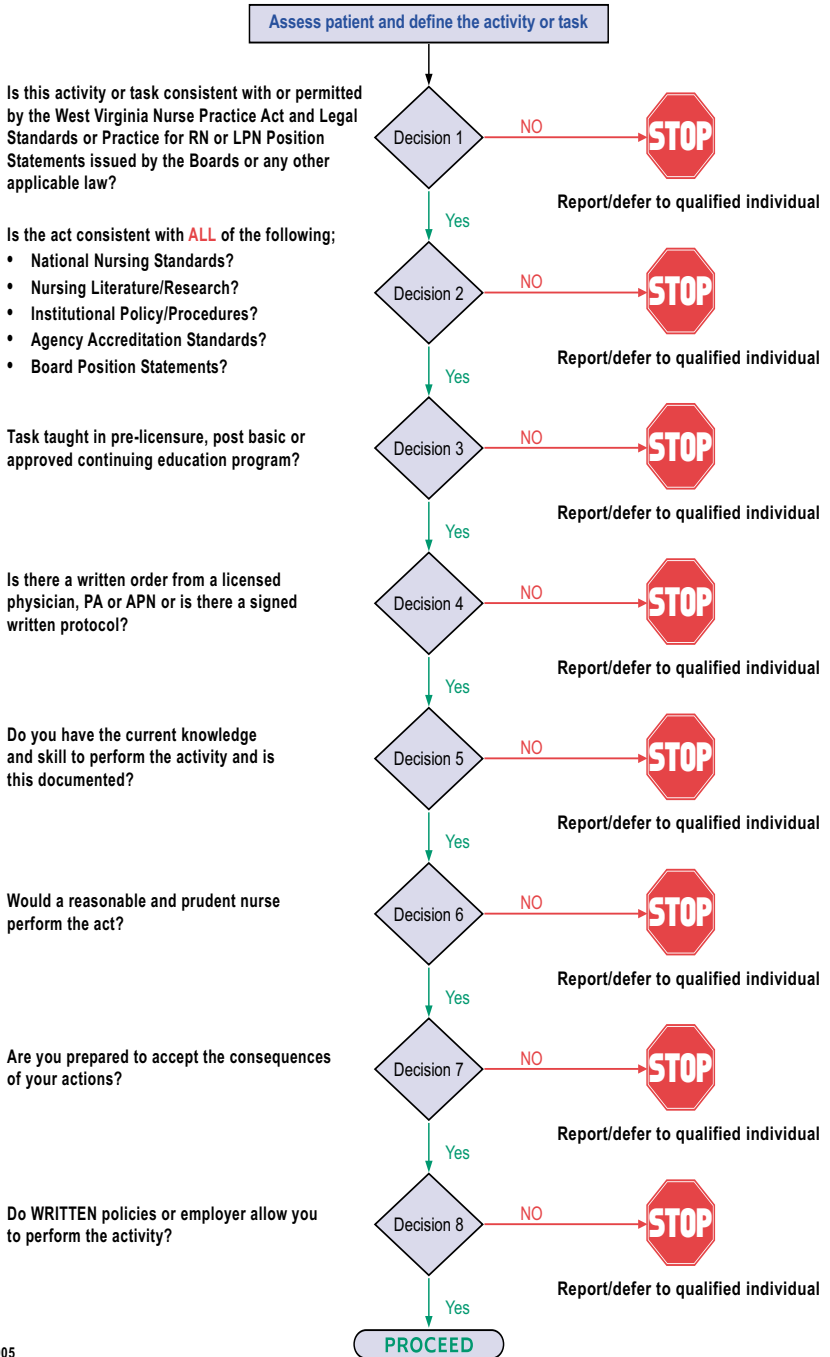
- A. What is the best decision? When should it be done? By whom? What are the implications of your decision? How will you evaluate your decision? Is the act within the scope of practice for a registered professional nurse, or is it an advanced practitioner role? Should it be performed by the licensed practical nurse or can it be performed by an unlicensed individual?
- B. Do you personally possess the depth and breadth of knowledge to perform the activity or task safely and effectively as demonstrated by knowledge acquired in a pre-licensure, post-basic or continuing education program?

- C. Do you personally possess current clinical competence to perform the activity or task safely? Is this competence documented?
- D. Are you physically and mentally capable of performing the activity safely?
- E. Are you prepared to accept the consequences of your actions and assume accountability for provision of safe care?

If you answered in the affirmative to all of the questions above, you may perform the activity or task.

NOTE: A Scope of Practice Decision Model Follows

SCOPE OF PRACTICE DECISION MODEL FOR RN'S AND LPN'S



REGISTERED PROFESSIONAL NURSE RESPONSIBILITY AS A SUPERVISOR OF DELEGATED OR ASSIGNED ACTIVITIES

The focus of registered professional nursing is on the application of substantial specialized knowledge, judgment and nursing skill in the assessment, analysis, planning, implementation and evaluation of nursing care. The registered professional nurse is responsible and accountable for:

- A. Clinical decision making regarding nursing care
- B. Assuring that care is provided in a safe and competent manner
- C. Determining which nursing acts in the implementation of care can be delegated or assigned and to whom
- D. Providing direction and assistance, periodic observation and evaluation of effectiveness of acts performed by those under supervision

Only those nursing activities commensurate with the educational preparation and demonstrated ability of the person who will perform the act may be delegated or assigned. Entry level nurses and those re-entering nursing will need continued education and support as they gain skills as supervisors of delegated skills and tasks.

FIVE RIGHTS OF DELEGATION/ASSIGNMENT

- 1. **RIGHT TASK**
Right person is delegating or assigning the right task to the right person to be performed on the right person.
- 2. **RIGHT PERSON**
Right person is delegating or assigning the right task to the right person to be performed on the right person.
- 3. **RIGHT DIRECTION/COMMUNICATION**
Clear, concise description of the task, including its objective, limits and expectations.
- 4. **RIGHT SUPERVISION**
Appropriate monitoring, evaluation, intervention, and feedback as needed.
- 5. **RIGHT CIRCUMSTANCES**
Appropriate patient setting, available resources, etc.

GUIDELINES FOR DELEGATION OF NURSING ACTS TO THE LICENSED PRACTICAL NURSE

The decision to delegate should be consistent with the time-honored and well established nursing process, i.e., appropriate assessment, planning, implementation and evaluation by the nurse delegator. This necessarily precludes a complete listing of tasks that can be routinely and uniformly delegated for all patients in all situations. Rather, the nursing process and decision to delegate must be based on careful analysis of the patient and circumstances. The authority and qualifications of the proposed nurse delegator are critical to delegation decisions. The Five Rights of Delegation may facilitate appropriate delegation decisions. Consequences of error and patient health and safety must be evaluated with each decision.

1. Delegation of acts beyond those taught in the basic educational program for the LPN should be based on a conscious decision of the registered nurse.
 - Practice beyond entry level for the LPN should not be automatic nor should it be based solely on length of experience.
2. Practice beyond entry level **must** be competency based.
 - Competency based practice is defined by structured educational activities which include assessment of learning and demonstration of skills.
3. Records of educational activities designed to enhance entry level knowledge, skill and ability **must** be maintained and available to the RN making the decision.
 - The employer and the employee must maintain records which include an outline of the educational content and an evaluation of achievement of educational objectives and demonstrated skills.
4. Competency based enhancement of practice must be reviewed periodically by the registered nurse.
 - Practice beyond the entry level should be more closely supervised.
5. Practice is limited to those activities addressed in the written policies and procedures of the employing agency, as long as those policies are not in conflict with West Virginia Law or rules.
 - Job descriptions and employing agency policies should specifically address functions that the LPN will be expected to perform as part of basic, as well as enhanced practice. Policies should also address the conditions under which the procedures and services are to be performed.

ACTIVITIES THAT MAY BE DELEGATED TO THE LPN

Activities appropriate for delegation to the LPN should be those that, after careful evaluation by the supervising RN, are expected to contain **only one option**. That is, the LPN is expected to be able to proceed through the established steps or an activity without encountering an unexpected response or reaction and competence in performance of the activity has been demonstrated.

ACTIVITIES THAT SHOULD NOT BE DELEGATED TO THE LPN

Activities that are NOT appropriate for delegation to an LPN are those that are likely to present decision making options, requiring in depth assessment and professional judgment in determining the next step to take as the provider proceeds through the steps of the activity.

GUIDELINES FOR ASSIGNING TASKS TO UNLICENSED PERSONNEL

There is a need and a place for competent, appropriately supervised, unlicensed assistive personnel in the delivery of affordable, quality health care. However, it must be remembered that unlicensed assistive personnel are to **assist - not replace - the nurse**. Thus, unlicensed assistive personnel should be assigned to the nurse to assist with patient care rather than be independently assigned to the patients.

ACTIVITIES THAT MAY BE ASSIGNED TO AN UNLICENSED PERSON

Nursing practice assigned to unlicensed assistive personnel is limited to performance of the basic nursing care services, such as taking vital signs, providing personal hygiene, comfort, nutrition, ambulation and environmental safety and protection. Unlicensed workers are **PROHIBITED** from performing any licensed nursing function that is specifically defined for licensed nurses in the nursing practice acts or rules of the Boards of Nursing, *except* as specifically provided in West Virginia Code and Rules (AMAPS, School Nurse, Dialysis Techs, EMS, etc.)

ACTIVITIES THAT SHOULD NOT BE ASSIGNED TO AN UNLICENSED PERSON

Activities that are not appropriate for assignment to an unlicensed person are those that require nursing judgment and skill and have substantial potential to jeopardize client safety and welfare. Except as specifically provided in law. (WV Code §16-5O-1 et.seq. and other laws and rules)

CLIENT SELF-CARE

The performance of nursing acts by the client for self-care or by the client's family members does not constitute delegation or assignment of nursing acts to unlicensed personnel for compensation.

Client and family education is a part of nursing practice. Nurses may teach and supervise the performance of activities by clients and family members who have demonstrated a willingness and an ability to perform the activity.

THE DIFFERENCE BETWEEN “DELEGATION” AND “ASSIGNMENT”?

Understanding the difference between “delegation” and “assignment” can be a challenge. In an effort to help nurses better understand the concepts as they apply to this document and practice in West Virginia, the following paragraphs are provided:

Delegation is always downward. That is, delegation occurs when one individual has the authority to perform the task or activity, and transfers that authority to another competent individual. The RN delegating the task retains the responsibility for the decision to delegate. The person performing the task is responsible and accountable for that task and related activities.

Assignment means that a nurse designates another competent nurse or unlicensed person to be responsible for specific patients or selected nursing functions for specifically identified patients. Assignment occurs when the authority to do a task already exists. Both registered nurses and licensed practical nurses have a defined scope of practice established in law; therefore, RN to RN, and (when the activity is within the LPN's scope of practice) RN to LPN, or LPN to LPN is an assignment. The RN or LPN making the assignment retains the responsibility for the task being completed by a competent person.

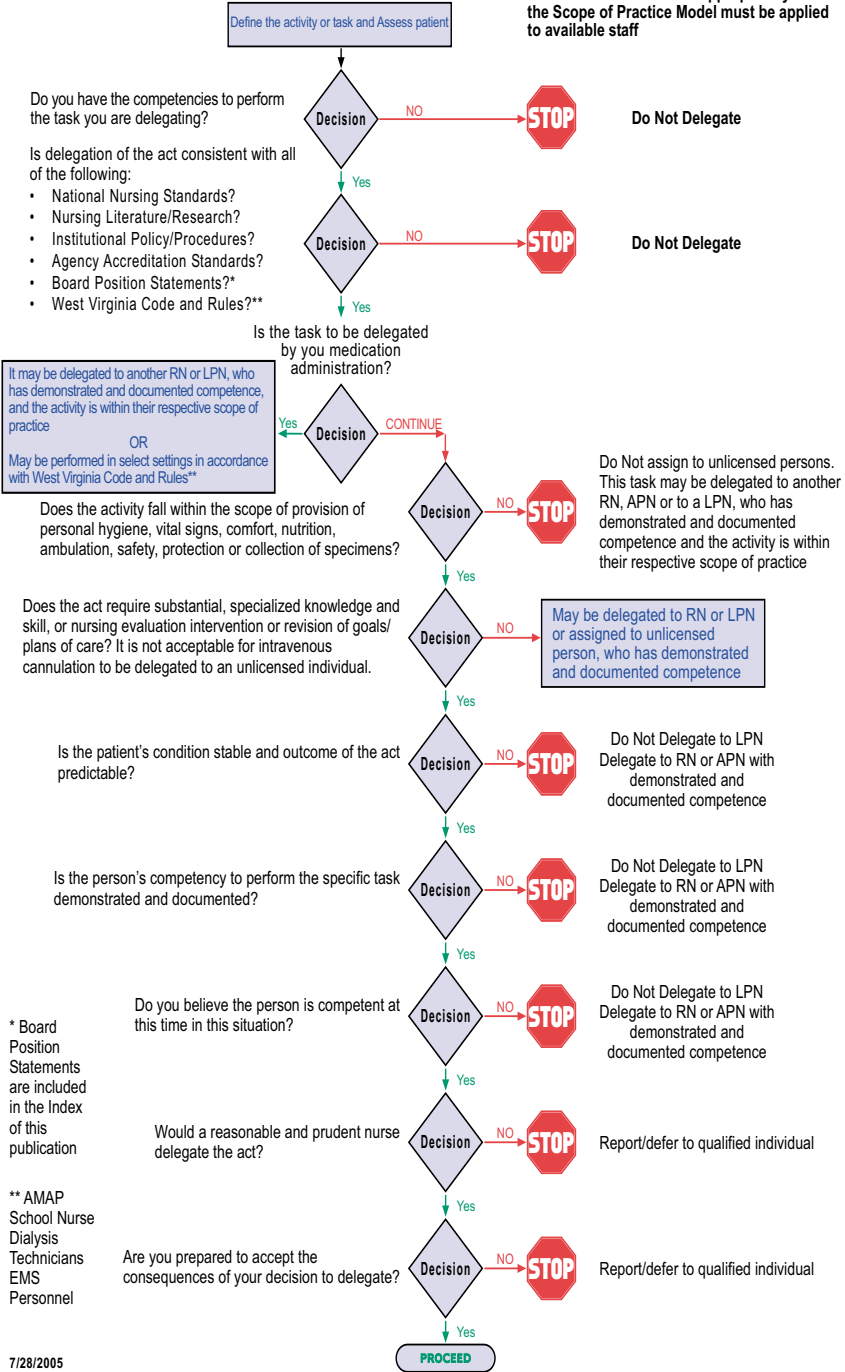
An element of assignment exists in all delegation; however, assignment, which is horizontal in nature, does not require delegation. Both “assignment” and “delegation” decisions must be made by a licensed nurse on the basis of the skill levels of the care givers, patient or client care needs, and other considerations.

Nurses have always been accountable or responsible for their assignment decisions. Responsibility or answerability when delegating or assigning cannot be avoided.

NOTE: A Delegation/Assignment Decision Model follows:

Delegation/Assignment Decision Model

Before this model can be appropriately used the **Scope of Practice Model** must be applied to available staff



Do you have the competencies to perform the task you are delegating?

Is delegation of the act consistent with all of the following:

- National Nursing Standards?
- Nursing Literature/Research?
- Institutional Policy/Procedures?
- Agency Accreditation Standards?
- Board Position Statements*?
- West Virginia Code and Rules?*

It may be delegated to another RN or LPN, who has demonstrated and documented competence, and the activity is within their respective scope of practice OR May be performed in select settings in accordance with West Virginia Code and Rules**

Does the activity fall within the scope of provision of personal hygiene, vital signs, comfort, nutrition, ambulation, safety, protection or collection of specimens?

Does the act require substantial, specialized knowledge and skill, or nursing evaluation intervention or revision of goals/plans of care? It is not acceptable for intravenous cannulation to be delegated to an unlicensed individual.

Is the patient's condition stable and outcome of the act predictable?

Is the person's competency to perform the specific task demonstrated and documented?

* Board Position Statements are included in the Index of this publication

** AMAP School Nurse Dialysis Technicians EMS Personnel

APPENDIX

**WEST VIRGINIA BOARD OF EXAMINERS
FOR REGISTERED PROFESSIONAL NURSES**

101 Dee Drive, Suite 102
Charleston, WV 25311-1620

POSITION STATEMENT

**The Role of the Registered Professional Nurse and the Licensed
Practical Nurse in Intravenous Therapy**

In response to the numerous inquiries the Board has received concerning the role of the practical nurse in the administration of intravenous therapy and in the management of the patient receiving intravenous therapy the Board issues the following clarification of its position statement.

The registered professional nurse (RN) is responsible and accountable for the administration and clinical management of intravenous therapy. The RN may delegate selected activities associated with the administration and management of intravenous therapy to a licensed practical nurse qualified by education and experience. The delegation of these activities is based upon the RN's judgment, policy and procedure of the institution and standards of nursing practice.

A 1982 opinion for the West Virginia Attorney General's office states: "Inherent in the definition of the registered professional nurse is the responsibility to administration (management) of the application of all nurse procedures, including intravenous therapy. The licensed practical nurse may, under the direction of a registered professional nurse, perform selected acts, which could conceivably include procedural aspects of intravenous therapy. However, performance of procedural aspects of intravenous therapy by a licensed practical nurse does not relieve the registered professional nurse of the responsibility provided for in law, for assigning the procedure to the licensed practical nurse. (Emphasis added.) The RN must know that the LPN has the appropriate education and demonstrable skills to perform the act. Regardless of who performs the act or procedure, the RN retains the responsibility for supervision of the patient, including observation of symptoms and reactions and supervision of other persons (including the LPN) with respect to application of nursing procedures."

The above statement is a reprint of a Position Statement provided by the Board in March, 1983, Revised December 4, 1989 and printed in the RN Newsletter Spring, 1990; Reviewed and Reaffirmed, June 14, 1999. Reviewed and Reaffirmed, June 15, 2005.

**WEST VIRGINIA STATE BOARD OF EXAMINERS
FOR LICENSED PRACTICAL NURSES**

101 Dee Drive, Suite 100
Charleston, West Virginia 15311-1688

The following are statements originally issued by the West Virginia State Board of Examiners for Licensed Practical Nurses in June, 1977, in response to frequent requests.

Administration of Intravenous Fluids

The law in West Virginia is not specific in that no duties are spelled out as being duties of a licensed practical nurse. The West Virginia State Board of Examiners for Licensed Practical Nurses can only recommend that licensed practical nurses perform duties and procedures for which training has been provided during the 12 month training program. The administration of I.V. fluids is not a part of the standard curriculum for accredited schools of practical nursing in West Virginia. However, if written hospital policy permits, additional training has been received and can be verified, providing there is adequate supervision and the licensed practical nurse is willing to accept responsibility, it is not illegal for a licensed practical nurse to perform more difficult procedures, such as administration of I.V. fluids.

Verbal and Telephone Orders

The West Virginia State Board of Examiners for Licensed Practical Nurses does not have a specific policy or rule in reference to this procedure. The following rules, however, apply in specific practice settings:

General Hospitals: 64 CSR 12, West Virginia Legislative Rules, Department of Health and Human Resources, Hospital Licensure, 1994, section 10.3.8 states in part "Verbal and telephone orders shall be given to licensed or registered health care professionals in the area of training and professional expertise of the individuals, if authorized by the medical staff policies: Provided, however, that any verbal or telephone order may be given to a registered professional nurse." . .

Nursing Homes: Historically the Legislative Rules, West Virginia Department of Health and Human Resources, Nursing Home Licensure, have permitted both R.N.s and L.P.N.s to take verbal or telephone orders in a nursing home. While currently 64 CSR 13, Nursing Home Licensure Rules, 2001, do not specifically address verbal or telephone orders, section 8.14.d. states that "A nursing home shall have a registered nurse on duty in the facility for at least eight (8) consecutive hours, seven (7) days a week." It is therefore a common practice for

licensed practical nurses, functioning without a registered nurse on the premises, to take verbal and telephone orders from the physician.

Other Work Settings: Consult policies of the employer and rules of appropriate accrediting or certifying agencies to determine whether the L.P.N. may take verbal or telephone orders.

(IVTHERAP): Approved: 6/77

Revised and Reaffirmed: 2/89, 2/90, 6/93, 6/94, 10/98, 8/05

DELEGATION BY SCHOOL NURSES OF ADMINISTRATION OF MEDICATION IN EMERGENCY SITUATIONS

The West Virginia Board of Examiners for Registered Professional Nurses has considered two separate inquiries related to the authority of a certified school nurse to delegate the administration of student medications to a teacher or other school employee. After reviewing the questions and available information, the Board offers the following guidance:

Under ideal circumstances, a nurse should be physically present in each school, or at least in each school in which a child requiring performance of specialized nursing functions is educated. Again under ideal circumstances, a Registered Professional Nurse should be responsible for the administration of all medications to children who require medication during the school day. The Board recognizes that these ideal circumstances do not yet exist. While practices may be developed to enable a minimum standard for safe care to be met, it is not the Board's intent to advocate anything less than the highest possible standard of care.

Injectable medications (emergent):

It is recognized that particular health problems may precipitate emergency situations requiring immediate treatment. Emergency situations are situations which cannot be predicted to occur at a particular time, or with a great degree of regularity, and which require definitive treatment within a very narrow period of minutes to avoid severe and perhaps permanent harm. Specific health problems or illnesses may create a high likelihood of the occurrence of such emergencies; to this extent, the emergency may be "predictable" because the underlying illness predisposes to its occurrence.

For students in whom there is a predisposition to an emergency health problem, including but not limited to profound hypoglycemia in the student known to be diabetic, or an anaphylactic reaction in the student with a history of such reactions, it is acceptable for the certified school nurse to delegate administration of medications used to treat such emergencies to qualified professional school employees, to provide for the safety of the student. Such delegation, consistent with the general guidelines set forth above, must be at the absolute discretion of the certified school nurse.

As the general discussion indicates, a written request and baseline information should be submitted by the parent(s), signed by the physician. In addition to training related to the illness and the medication, the designee who will administer the medication should

demonstrate understanding of additional information. Additional understanding must include a clear comprehension of the indications for administration of the emergency medication, ability to perform an accurate, appropriate assessment to determine the need for the emergency medication, demonstration and verbalization of proper preparation and administration of the emergency medication, and knowledge of responses to the medication. The designee who will administer the emergency medication should also understand that, in any instance that such medication is given, the student must be entered into the formal health care system for evaluation and follow up, most likely by utilization of the "911" or other emergency medical response system. Documentation of events preceding the medication, during administration, following administration, and the time and personnel that assumed care of the student following the episode should be completed as soon as possible after care for the student has been assumed by emergency medical or other health care personnel. Documentation should be delayed until it is clear that the professional school employee is no longer required to assist in providing care to or information regarding the student.

The law pertaining to providing nursing care in the school setting falls under West Virginia Code Chapter . School nurses have a policy book that provides all policies and procedures approved by the Department of Education. All school nurses are required to have knowledge of these policies and practices.

Issued: March, 1993; Revised and Reaffirmed March 21, 1996; June 14, 1999; June 15, 1999; June 15, 2005.

POSITION STATEMENT
EMERGENCY MEDICAL SERVICE PERSONNEL
EMPLOYED IN HOSPITAL EMERGENCY DEPARTMENTS

Consistent with applicable law, the West Virginia Board of Examiners for Registered Professional Nurses (Board) is issuing this statement to direct Registered Professional Nurses who work with Emergency Medical Services personnel in hospital settings, including hospital Emergency Departments. Registered Professional Nurses are not authorized to delegate professional duties to Emergency Medical Services personnel.

Professional nursing functions, including tasks which require assessment, planning, and professional judgment, must remain the responsibility of the Registered Professional Nurse (RN). The RN must not delegation professional functions to caregivers not qualified as professional nurses.

Registered Professional Nurses, including those nurses that practice in emergency settings, must recognize their specialized skill and expertise, and seek to deliver no less than that high level of skill and expertise to any patient/client that comes within their care. To delegate professional nursing functions on the premised that they represent mere “tasks” belies the practice and professionalism of the registered professional nurse; while performing a “task”, a registered professional nurse is also educating, assessing, reassuring, and planning. To delegate the mere “task” fails to also assign responsibility for the concurrent functions, and thus deprives the patient of the fullest scope of qualified emergency care.

Laws that establish pre-hospital practice standards for Emergency Medical Services personnel cannot be presumed to authorize comparable practice in the hospital Emergency Department. The emphasis and standard of care changes when the patient/client travels from the pre-hospital to the hospital setting. Practice standards which authorize certain pre-hospital care, often to save life or limb, cannot be considered to meet the higher standard of care which applies once the patient has been received in a hospital or other facility, in which additional resources and personnel are available.

Patient care in the Emergency Department must be coordinated by a registered professional nurse, who defines the standards of care and scope of practice for all nursing and assistive personnel. While other participants in the health care process may provide assistance in defining the role(s) of the non-RN caregiver in the Emergency Department, the final responsibility for delegating patient care activities

must remain with the Registered Professional Nurse who serves as Department Manager/Coordinator.

This statement represents the consistent position of the Board. It is issued at present not to represent a change, but because it has come to the attention of the Board that confusion may exist in this area.

A law passed during the 2005 Legislative Session providing EMS personnel with the authority to function in Hospital Emergency Departments under the supervision of a registered professional nurse, however, this activity **CANNOT OCCUR** until the rules related to this practice are written and approved. As of the printing of this document, the rules have not been written nor approved.

Issued: March 19, 1993; Reviewed and Reaffirmed, March 21, 1996; December 4, 1998; June 15, 2005

TITLE 19
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF EXAMINERS FOR
REGISTERED PROFESSIONAL NURSES

SERIES 3
REQUIREMENTS FOR REGISTRATION AND LICENSURE

For a complete copy of this rule visit www.wvrnboard.com

§19-3-1. General.

1.1. Scope. — This rule establishes the requirements for registration and licensure of a registered professional nurse.

1.2. Authority. — W. Va. Code §§30-7-4 and 30-1-4.

1.3. Filing Date. — June 28, 2002.

1.4. Effective Date. — July 1, 2002.

§ 19-3-2. Definitions.

The following words and phrases as used in this rule have the following meanings, unless the context requires otherwise:

2.1. “Certificate of registration” means a document issued by the board upon original licensure by examination in West Virginia;

2.2. “Direct Supervision” means the activity of a registered professional nurse with an unencumbered license in West Virginia being present at all times in the same assigned physical work area as the person being supervised.

2.3. “Good Professional Character” means the integrated pattern of personal, academic and occupational behaviors which, in the judgment of the board, indicates that an individual is able to consistently conform his or her conduct to the requirements of West Virginia Code §30-7-1 et seq., the board’s rules and generally accepted standards of nursing practice including, but not limited to, behaviors indicating honesty, accountability, trustworthiness, reliability and integrity.

2.4. “Impaired” means the condition of a licensee whose performance or behavior is altered through the use of alcohol, drugs, or other means.

2.5. "Licensure card" means the wallet-sized document issued annually to indicate current registration or re-registration;

2.6. "National Council Licensure Examination" (NCLEX-RN) means the licensure examination for registered nurses which is owned and controlled by the national council of state boards of nursing;

2.7. "Structured treatment program" means a program for physical, psychological, social and/or spiritual rehabilitation, if the program has been expressly approved by the board.

2.8. "Temporary permit" means a permit authorizing the holder to practice registered professional nursing in this state until the permit is no longer effective or the holder is granted a license by the board. The holder of a temporary permit is subject to all provisions of W. Va. Code §30-7-1 et seq., and all other relevant sections of the West Virginia Code and rules promulgated by the board.

§19-3-14. Professional Misconduct

14.1. Conduct, including, but not limited to the following, if proven by a preponderance of evidence, constitutes professional misconduct subject to disciplinary action pursuant to W. Va. Code §30-7-11(f). The applicant or licensee:

14.1.a. failed to adhere to common and current standards for professional nursing practice, including but not limited to standards established by a national professional nursing organization, nursing research, nursing education, or the Board;

14.1.b. failed to adhere to established standards in the practice setting to safeguard patient care;

14.1.c. knowingly committed an act which could adversely affect the physical or psychological welfare of a patient;

14.1.d. abandoned patients by terminating responsibility for nursing care, intervention, or observation without properly notifying appropriate personnel and ensuring the safety of patients;

14.1.e. practiced or offered to practice beyond the scope permitted by law or accepted and performed professional responsibilities that the licensee knows or has reason to know that he or she is not licensed, qualified, or competent to perform;

14.1.f. impersonated another licensed practitioner;

14.1.g. permitted another person to use the licensee's license for any purpose;

14.1.h. permitted, aided, or abetted an unlicensed, uncertified, or unregistered person to perform activities requiring a license, certificate, or registration;

14.1.i. delegated professional responsibilities to a person when the licensee delegating the responsibilities knows or has reason to know that person is not qualified by training, experience or licensure to perform them;

14.1.j. practiced registered professional nursing while his or her license is suspended, lapsed, or inactive;

14.1.k. failed to comply with terms and conditions as may be imposed by the Board based upon previous disciplinary action of the Board;

14.1.l. practiced professional nursing while the ability to safely and effectively practice is compromised by alcohol or drugs;

14.1.m. is addicted to a controlled substance;

14.1.n. is a chronic or persistent alcoholic;

14.1.o. engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member of the public; thus, not exercising good professional character;

14.1.p. practiced professional nursing while the ability to safely and effectively practice was compromised by physical or mental disability;

14.1.q. refused or failed to report for a physical or mental examination, including but not limited to laboratory or other tests, requested by the board;

14.1.r. provided false or incorrect information to an employer or potential employer regarding the status of a license, or failed to inform an employer or potential employer of a change in the status of a license;

14.1.s. knowingly falsified an application for employment;

14.1.t. knowingly provided false information regarding completion of educational programs;

14.1.u. falsified patient records or intentionally charted incorrectly;

14.1.v. improperly, incompletely, or illegibly documented the delivery of nursing care, including but not limited to treatment or medication;

14.1.w. knowingly made or filed a false report;

14.1.x. knowingly or negligently failed to file a report or record required by state or federal law;

14.1.y. willfully impeded or obstructed the filing of a report or record required by state or

federal law;

14.1.z. induced another person to file a false report or obstructed the filing of a report required by state or federal law;

14.1.aa. failed to report to the board within thirty (30) days, knowledge of a violation by a registered professional nurse of W. Va. Code §30-7-1 et seq., 30-15-1 et seq., this rule, any other applicable state law or rule or any applicable federal law or regulation;

14.1.bb. failed to report through proper channels a violation of any applicable state law or rule, any applicable federal law or regulation or the incompetent, unethical, illegal, or impaired practice of another person who provided health care;

14.1.cc. impeded or obstructed an investigation by the Board by failing to comply or respond to requests for action or information, whether the failure was known or negligent;

14.1.dd. violated any provision of W. Va. Code §30-7-1 et seq., or rules governing the practice of registered professional nursing, or a rule or order of the board, or failed to comply with a subpoena or subpoena duces tecum issued by the board;

14.1.ee. failed to register or notify the board of any changes of name or mailing address;

14.1.ff. failed to accept certified mail from the board, when mailed to the licensee's last address on record in the board's office;

14.1.gg. failed to disclose to the board a criminal conviction in any jurisdiction;

14.1.hh. was convicted of a misdemeanor with substantial relationship to the practice of registered professional nursing, in a court of competent jurisdiction.

14.1.ii. failed to disclose information when required by the board concerning treatment or counseling for substance abuse, or participation in any professional peer assistance program;

14.1.jj. provided false information on any application, or any other document submitted to the board for the purpose of licensure, advanced practice recognition, or prescriptive authority;

14.1.kk. misappropriated medications, supplies, or personal items of a patient or employer;

14.1.ll. self-administered or otherwise took into his or her body any prescription drug in any way not in accordance with a legal, valid prescription or used any illicit drug;

14.1.mm. prescribed, dispensed, administered, mixed or otherwise prepared a prescription drug, including any controlled substance under state or federal law, not in accordance with accepted

nursing practice standards or not in accordance with the board's rule Limited Prescriptive Authority For Nurses in Advanced Practice, 19 CSR 8;

14.1.nn. physically or verbally abused, or failed to provide adequate protection or safety for an incapacitated individual in the context of a nurse-patient/client relationship;

14.1.oo. used the nurse-patient/client relationship to exploit a patient or client;

14.1.pp. engaged a patient or client in sexual activity or became romantically involved with a patient or client while still responsible for the care of that patient or client;

14.1.qq. failed to maintain appropriate professional boundaries in the nurse-patient/client relationship;

14.1.rr. failed to report that his or her license to practice registered professional nursing in any other state, territory, jurisdiction or foreign nation was revoked, suspended, restricted or limited, or otherwise acted against, that he or she was subjected to any other disciplinary action by the licensing authority, or that he or she was denied licensure in any other state, territory, jurisdiction, or foreign nation;

14.1.ss. practiced registered professional nursing by way of telecommunications or otherwise, in any other state, territory, jurisdiction, or foreign nation, without a license to do so and not in accordance with the law of that state, territory jurisdiction, or foreign nation; or

14.1.tt. was found guilty for improper professional practice or professional misconduct by a duly authorized professional disciplinary agency or licensing or certifying body or board in this or another state or territory, where the conduct upon which the finding was based would, if committed in this state, constitute professional misconduct under the laws of this state, may serve as a basis for disciplinary action by this Board.

14.2. Upon a finding of probable cause that a basis for disciplinary action exists, the board may require a licensee or a person applying for licensure to practice as a registered professional nurse in this state to submit to a physical or psychological examination by a practitioner approved by the board. Any individual who applies for or accepts the privilege of practicing as a registered professional nurse in this state is considered to have given consent to submit to all such examinations when requested to do so in writing by the board and to have waived all objections to the admissibility of the testimony or examination report of any examining practitioner on the ground that the testimony or report is a privileged communication. If an applicant or licensee fails or refuses to submit to any examination under

circumstances which the board finds are not beyond his or her control, that failure is prima facie evidence of his or her inability to practice as a registered professional nurse competently and in accordance with accepted standards for professional practice. A licensee or person applying for licensure as a registered professional nurse who is adversely affected by this provision may request a hearing within thirty days of any action taken by the board.

14.3. Based on the nature of the complaint filed against a licensee or based on the nature of the information received on an applicant, the board may require a criminal history records check of the licensee or the applicant to be paid for by the licensee or applicant. The licensee or applicant under investigation shall furnish to the agency a full set of fingerprints for purposes of conducting a criminal history record check.. Records are checked through the criminal identification bureau of the West Virginia State Police, a similar agency within the licensee's state of residence, and the United States Federal Bureau of Investigation. The board may take disciplinary action against the licensee for refusing to submit to the criminal history records check or the board may deny licensure.

14.4. If the board finds that public health, safety and welfare requires emergency action and incorporates a finding to that effect into its order, the board shall order summary suspension of a license pending proceedings for revocation of the license or other action. The board shall promptly institute and determine further disciplinary action.

§19-3-15. Impaired Nurse Treatment Program.

15.1. The board may permit a licensee or applicant for licensure who has been found guilty of prohibited conduct, to participate in a structured treatment program and meet other terms and conditions for continued licensure, in lieu of disciplinary action.

15.1.a. The board may appoint a designee to monitor participation in a approved treatment program;

15.1.b. The board may excuse an applicant or licensee that remains in compliance with the terms of an approved treatment program, to the satisfaction of the board's designee, from appearing before the board or hearing examiner to respond further to charges of misconduct;

15.1.c. An applicant or licensee that fails to comply with the terms of an approved treatment program, to the satisfaction of the board's designee, may be subject to further disciplinary action to the fullest extent of the board's authority;

15.2. The board may establish or approve impaired nurse treatment programs.

§19-3-16. Expungement of Records.

16.1. The Disciplinary Review Committee shall expunge all complaints that it dismisses, upon request by the licensee, from the licensee's file after three (3) years, if no other complaint is received against the same licensee within the three (3) year period.

TITLE 19
LEGISLATIVE RULE
BOARD OF EXAMINERS FOR REGISTERED
PROFESSIONAL NURSES

SERIES 10
STANDARDS FOR PROFESSIONAL NURSING PRACTICE

§19-10-1. General.

1.1. Scope. — This rule establishes standards of safe practice for the registered professional nurse, and serves as a guide for the board in evaluating nursing care to determine if it is safe and effective.

1.2. Authority. — W. Va. Code §30-7-4

1.3. Filing Date. — March 31, 1994

1.4. Effective Date. — April 1, 1994

§19-10-2. Standards Related to the Registered Professional Nurse's Responsibility to Implement the Nursing Process.

2.1. The registered professional nurse shall conduct and document nursing assessments of the health status of individuals and groups by:

2.1.1. Collecting objective and subjective data from observations, examinations, interviews, and written records in an accurate and timely manner. The data includes but is not limited to:

2.1.1.a. The client's knowledge and perception about health status and potential, or maintaining health status;

2.1.1.b. Consideration of the client's health goals;

2.1.1.c. The client's biophysical and emotional status;

2.1.1.d. The client's growth and development;

2.1.1.e. The client's cultural, religious and socio-economic background;

2.1.1.f. The client's ability to perform activities of daily living;

2.1.1.g. The client's patterns of coping and interacting;

2.1.1.h. Environmental factors (e.g. physical, social, emotional and ecological);

2.1.1.i. Available and accessible human and material resources;

2.1.1.j. The client's family health history; and

2.1.1.k. Information collected by other health team members;

2.1.2. Sorting, selecting, reporting and recording the data; and

2.1.3. Continuously validating, refining and modifying the data by utilizing all available resources, including interaction with the client, the client's family and significant others, and health team members.

2.2. The registered professional nurse shall establish and document nursing diagnoses and/or client care needs which serve as the basis for the plan of care.

2.3. The registered professional nurse shall identify expected outcomes individualized to the client and set realistic and measurable goals to implement the plan of care.

2.4. The registered professional nurse shall develop and modify the plan of care based on assessment and nursing diagnosis and/or patient care needs. This includes:

2.4.1. Identifying priorities in the plan of care;

2.4.2. Prescribing nursing intervention(s) based upon the nursing diagnosis and/or patient care needs;

2.4.3. Identifying measures to maintain comfort, to support human functions and responses, to maintain an environment conducive to well being, and to provide health teaching and counseling.

2.5. The registered professional nurse shall implement the plan of care by:

2.5.1. Initiating nursing interventions through:

2.5.1.a. Writing nursing orders and/or directives;

2.5.1.b. Providing direct care;

2.5.1.c. Assisting with care; and

2.5.1.d. Delegating and supervising nursing care activities;

2.5.2. Providing an environment conducive to safety and health;

2.5.3. Documenting nursing interventions and responses to care; and

2.5.4. Communicating nursing interventions and responses to care to other members of the health care team.

2.6. The registered professional nurse shall evaluate patient outcomes and the responses of individuals or groups to nursing interventions. Evaluation shall involve the client, the client's family and significant others, and health team members.

2.6.1. Evaluation data shall be documented and communicated to other members of the health care team.

2.6.2. Evaluation data shall be used as a basis for reassessing the client's health status, modifying nursing diagnoses and/or patient care needs, revising plans of care, and prescribing changes in nursing interventions.

§19-10-3. Standards Related to the Registered Professional Nurse's Responsibility as a Member of the Nursing Profession.

3.1. The registered professional nurse shall know the statutes and rules governing nursing and function within the legal boundaries of nursing practice.

3.2. The registered professional nurse shall accept responsibility for his or her individual nursing actions and competence.

3.3. The registered professional nurse shall obtain instruction and supervision as necessary when implementing nursing techniques or practices.

3.4. The registered professional nurse shall function as a member of the health team.

3.5. The registered professional nurse shall collaborate with other members of the health team to provide optimum patient care.

3.6. The registered professional nurse shall consult with nurses and other health team members and make referrals as necessary.

3.7. The registered professional nurse shall contribute to the formulation, interpretation, implementation and evaluation of the objectives and policies related to nursing practice within the employment setting.

3.8. The registered professional nurse shall participate in the systematic evaluation of the quality and effectiveness of nursing practice.

3.9. The registered professional nurse shall report unsafe nursing practice to the Board and unsafe practice conditions to recognized legal authorities.

3.10. The registered professional nurse shall delegate to another only those nursing measures which that person is prepared or qualified to perform.

3.11. The registered professional nurse shall supervise others to whom nursing interventions are delegated.

3.12. The registered professional nurse shall retain professional accountability for nursing care when delegating nursing interventions.

3.13. The registered professional nurse shall conduct practice without discrimination on the basis of age, race, religion, gender, sexual preference, socio-economic status, national origin, handicap, or disease.

3.14. The registered professional nurse shall respect the dignity and rights of clients regardless of social or economic status, personal attributes, or nature of the client's health problems.

3.15. The registered professional nurse shall respect the client's right to privacy by protecting confidential information unless obligated by law to disclose the information.

3.16. The registered professional nurse shall respect the property of clients, family, significant others, and the employer.

3.17. The registered professional nurse assuming advanced practice shall be qualified to do so through education and experience as set forth in W. Va. Code §30-7-1 et seq. and the rule governing Announcement of Advanced Practice, 19 WV CSR 7.

TITLE 10
LEGISLATIVE RULE
STATE BOARD OF EXAMINERS
FOR LICENSED PRACTICAL NURSES

SERIES 3
LEGAL STANDARDS OF NURSING PRACTICE

§10-3-1. General.

- 1.1. Scope. — This legislative rule establishes minimum standards of safe practice for the Licensed Practical Nurse.
- 1.2. Authority. — W. Va. Code §30-7A-5.
- 1.3. Filing Date. — April 24, 2001.
- 1.4. Effective Date. — May 24, 2001.

§10-3-2. Purpose of Standards.

The purpose of this rule is:

- 2.1. to establish minimum acceptable levels of nursing practice for the licensed practical nurse; and
- 2.2. to serve as a guide for the board to evaluate the practice of the licensed practical nurse to determine if the practice is safe and effective.

§10-3-3. Standards Related to the Licensed Practical Nurses' Contribution to, and Responsibility for, the Nursing Process.

The licensed practical nurse practicing under the direction of a registered professional nurse, licensed physician or licensed dentist shall:

- 3.1. contribute to the nursing assessment by collecting, reporting and recording objective and subjective data in an accurate and timely manner. Data collection includes, but is not limited to observations of:
 - 3.1.a. the condition or change in the condition of a client;
- and

3.1.b. signs and symptoms of deviation from normal health status;

3.2. participate in the development of the strategy of care in consultation with other nursing personnel. Participation in the development of a strategy of care includes:

3.2.a. contributing to the identification of priorities;

3.2.b. contributing to setting realistic and measurable goals;
and

3.2.c. contributing to the selection of nursing interventions which include measures to maintain comfort, support human functions and responses, maintain an environment conducive to well being, and provide health teaching and counseling;

3.3. provide nursing care under the direction of a registered professional nurse by:

3.3.a. caring for clients whose conditions are stabilized or predictable;

3.3.b. assisting with clients whose conditions are critical and/or fluctuating under the direct supervision of the registered professional nurse;

3.3.c. implementing nursing care according to the priority of needs and established practices;

3.3.d. providing an environment conducive to safety and health;

3.3.e. documenting nursing interventions and responses to care; and

3.3.f. communicating nursing interventions and responses to care to appropriate members of the health team.

3.4. Assign components of nursing care to other qualified persons;
and

3.5. Contribute to the evaluation of the responses of individuals and groups to nursing interventions by:

3.5.a. monitoring the responses to nursing interventions;

3.5.b. documenting and communicating assessment data to appropriate members of the health care team; and

3.5.c. contributing to the modification of the strategy of care on the basis of the assessment data.

§10-3-4. Standards Relating to the Licensed Practical Nurse's Responsibilities as a Member of the Health Care Team.

The Licensed Practical Nurse shall:

- 4.1. be familiar with the statutes and rules governing nursing;
- 4.2. clearly display on his or her name tag or other identification badge their licensing credential (LPN);
- 4.3. function within the legal boundaries of practical nursing practice;
- 4.4. accept responsibility for individual nursing actions, competencies and behavior;
- 4.5. function under the direction of a registered professional nurse, licensed physician or licensed dentist;
- 4.6. consult with the registered professional nurse to seek guidance in delivery of nursing care as necessary;
- 4.7. obtain instruction and supervision as necessary from the registered professional nurse when implementing nursing techniques or practices;
- 4.8. retain accountability for the timely and accurate completion of tasks assigned to other qualified persons;
- 4.9. function as a member of the health team;
- 4.10. contribute to the formulation, interpretation, implementation and evaluation of the objectives and policies related to practical nursing practice within the employment setting;
- 4.11. participate in the evaluation of nursing through peer review;
- 4.12. report unsafe nursing practice to the Board and unsafe practice conditions to recognized legal authorities;
- 4.13. conduct practice without discrimination on the basis of age, race, religion, sex, sexual preference, national origin or handicap;
- 4.14. respect the dignity and rights of clients regardless of social or economic status, personal attributes or the nature of the health problem;
- 4.15. respect the client's right to privacy by protecting confidential information, unless obligated by law to disclose the information;
- 4.16. respect the property of employers, clients and their families;
and
- 4.17. participate in relevant continuing competence activities to maintain current knowledge and skill levels in practical nursing as required in West Virginia State Board of Examiners for Licensed Practical Nurses Rule, Continuing Competence, 10 CSR 6.

**TITLE 10
LEGISLATIVE RULES
WEST VIRGINIA STATE BOARD OF
EXAMINERS FOR LICENSED PRACTICAL NURSES**

SERIES 1

**POLICIES AND PROCEDURES FOR DEVELOPMENT AND
MAINTENANCE OF EDUCATIONAL PROGRAMS IN PRACTICAL
NURSING**

§10-1-1. General.

- 1.1. Scope.—This legislative rule establishes the administrative requirements for development and maintenance of educational programs in practical nursing.
- 1.2. Authority. — W. Va. Code §30-7A-5.
- 1.3. Filing Date. — April 6, 2004.
- 1.4. Effective Date. — April 12, 2004.

For a complete Rule please visit the LPN Board web site at www.lpnboard.state.wv.us

§10-1-8. Program of Instruction

8.1. The program of instruction shall be twelve (12) months in length unless the sponsoring agency administrator provides written justification for the change in program length to the board and the variance is approved by the board.

8.2. Curriculum concepts.

8.2.a. The faculty should develop the philosophy and student terminal objectives for the program. The faculty shall use these philosophy and objectives as a basis for curriculum development.

8.2.b. The faculty should plan the curriculum for the program of practical nursing to meet community nursing needs. The faculty shall consider current concepts in health care and the changing roles of all levels of nursing in developing and evaluating the curriculum.

8.2.c. The faculty shall place emphasis on development and achievement of measurable objectives for the total program based upon the recommended number of clock hours. The faculty may adapt and enrich curriculum in accordance with stated objectives, clinical resources and facilities.

8.2.d. The faculty shall utilize current educational concepts and methods of teaching including integration of content, career mobility, and individualized and competency based instruction where appropriate in the curriculum.

8.2.e. The faculty may make major curriculum changes only after written consultation with the board's Executive Secretary or the board.

8.3. Curriculum content

8.3.a. The faculty shall develop a master plan of the curriculum and shall make the master plan available to students. The master plan shall show length and sequence of courses, areas of content to be covered and classroom and clinical settings to be used.

8.3.b. The master plan shall provide evidence that the curriculum is designed to meet the objectives of the program and shall identify that:

8.3.b.1. classroom and clinical instruction meet the physical and psychosocial needs of all age groups;

8.3.b.2. concurrent learning experiences in theory and clinical practice emphasize basic nursing principles and procedures related to nursing;

8.3.b.3. clinical practice begins the third week of the program to facilitate concurrent learning;

8.3.b.4. basic concepts of nutrition, anatomy, physiology, pharmacology, mental health, communications, history and trends in nursing, vocational responsibilities, computer skills and family living are integrated into the program;

8.3.b.5. learning is arranged to progress from simple procedures to complex procedures; and

8.3.b.6. clinical instruction is included for medical, surgical, geriatric, mental health, maternal infant care, and pediatric areas.

8.3.c. The faculty shall utilize acute, long-term and community health facilities and agencies in the program if appropriate learning experiences are available. The faculty shall utilize specialty areas, such as intensive care, coronary care and emergency rooms in the program only with faculty supervision and after providing written justification to the board.

8.4. The board suggests the following subjects and combined classroom and clinical instructional hours.

Subject Actual Instructional Time

Principles and Fundamentals	200
*Social Sciences Integrated	150
Body Structure	60
Nutrition and Diet Therapy	40
Pharmacology	80
**Medical-Surgical	450
Geriatrics	100
Mental Health	100
Obstetrics	60
Pediatrics	60
Total Instructional Hours	1,300

* To include ethical and legal responsibilities such as advance directives, advocacy, professional boundaries, confidentiality, client rights, organ donation, informed consent, incident reporting, resource management, scope of practice, delegation/assignment, leadership, legal standards, endorsement, continuing competence, and grounds for disciplinary action including procedures and penalties.

** To include prevention and early detection of health problems.

8.5. The faculty shall devote not less than one fourth (1/4) nor more than one half (1/2) of the actual instructional time to theory unless the faculty provides written justification for a waiver of the requirements for instructional time devoted to theory to the board and the waiver is approved by the board.

8.6. Rotation plan.

8.6.a. The nurse coordinator shall develop and post a complete rotation plan for each student showing daily classroom theory content and corresponding clinical practice for all nursing practice experiences.

8.6.b. The nurse coordinator should develop the rotation plan in cooperation with the affiliating facilities and agencies, taking into consideration available clinical services, quantity and quality of supervision for students and requirements of the board.

8.6.c. The nurse coordinator and the affiliating agency may, by mutual agreement, change the established plan for rotation of students through the clinical services.

8.7. Faculty Supervision of Students

8.7.a. The board recommends that both faculty and students carry liability insurance.

8.7.b. The program faculty shall supervise all clinical practice.

8.7.c. Faculty members shall be registered professional nurses. A licensed practical nurse may be employed by the sponsoring agency to aid the program faculty in the supervision of the students' laboratory and clinical practice provided that a registered nurse faculty member is immediately available for consultation. The sponsoring agency shall base student-teacher ratio, as specified in section 7.2. of this rule, on the number of registered professional nurse faculty members.

8.7.d. The faculty shall select clinical practice areas that offer the student the opportunity to observe and practice good nursing care. Faculties are encouraged to use West Virginia facilities. The faculty shall periodically evaluate clinical practice areas to assure that adequate experiences are available to meet program objectives.

8.7.e. The overall objective of a program is to prepare the student for service, however, the affiliating agency is responsible for the provision of service to patients. The nursing service needs of the patients should not take precedence over the educational needs of the student.

8.7.f. A representative of the board shall review a program's clinical facilities when new facilities are added. The sponsoring agency shall request this visit.

8.7.g. Students assigned to community agencies, i.e., clinics, nursery schools, day care centers, community health agencies, rehabilitation centers, doctors' offices, mental health centers and other available health agencies may be supervised by an employee of that agency in lieu of a faculty member of the program, provided that the students do not provide direct patient care. The faculty shall develop written objectives for the experience. The written objectives shall relate to the overall objectives for the program. The faculty shall hold pre and post clinical conferences.

8.8. Instruction

8.8.a. The scheduled instructional time for classroom and clinical experiences shall not exceed thirty-two (32) hours per week.

8.8.b. A final passing score of "C" is required in each course.

8.9. Classroom instruction.

8.9.a. The faculty shall develop and utilize a written outline for each course of instruction which includes a plan for each lesson. Each lesson shall contain behavioral objectives, an outline of lesson content, time allotment for the lesson, teaching methods, evaluation methods, visual aids and reference materials.

8.9.b. The behavioral objectives and the corresponding outline of lesson content shall be consistent with and shall contribute to the achievement of the objectives of the program.

8.9.c. The scheduled learning experiences for a unit of content shall be consistent with the master plan and rotation schedule and shall provide for concurrent clinical instruction.

8.9.d. The time allotted to each lesson shall be consistent with the content to be covered and the learning expected of the students.

8.9.e. The content of the program and teaching methods shall reflect current concepts and practices in nursing education.

8.10. Clinical instruction

8.10.a. The faculty shall develop written objectives for each area of clinical instruction and shall contribute to the achievement of the objectives of the program. Clinical learning experiences shall:

8.10.a.1. be concurrent with classroom instruction for a given course;

8.10.a.2. be of adequate length to permit the instructor to modify the planned assignments to meet the needs of individual students;

8.10.a.3. be selected by the program's faculty on the basis of their contribution to the objectives of the course and the total program;

8.10.a.4. include instructor-student conferences related to the care of patients;

8.10.a.5. include the opportunity for students to participate in staff conferences and inservice education programs;

8.10.a.6. provide for students to assist with the preparation, implementation and continuing evaluation of the nursing care plan for individual patients; and

8.10.a.7. provide for regular evaluation of the student's achievement utilizing measurable performance objectives.

8.10.b. The sponsoring agency shall require that a student satisfactorily achieve the clinical performance objectives to progress in the program.

ARTICLE 50.**MEDICATION ADMINISTRATION BY UNLICENSED PERSONNEL.****§16-50-1. Short title.**

This article may be cited as the “Medication Administration by Unlicensed Personnel Act.”

§16-50-2. Definitions.

As used in this article, unless a different meaning appears from the context, the following definitions apply:

(a) “Administration of medication” means:

(1) Assisting a person in the ingestion, application or inhalation of medications, including prescription drugs, or in the use of universal precautions or rectal or vaginal insertion of medication, according to the legibly written or printed directions of the attending physician or authorized practitioner, or as written on the prescription label; and

(2) Making a written record of such assistance with regard to each medication administered, including the time, route and amount taken: *Provided*, That for purposes of this article, “administration” does not include judgment, evaluation, assessments, injections of medication, monitoring of medication or self-administration of medications, including prescription drugs and self-injection of medication by the resident.

(b) “Authorizing agency” means the department’s office of health facility licensure and certification.

(c) “Department” means the department of health and human resources.

(d) “Facility” means an ICF/MR, a personal care home, residential board and care home, behavioral health group home, private residence in which health care services are provided under the supervision of a registered nurse or an adult family care home that is licensed by or approved by the department.

(e) “Facility staff member” means an individual employed by a facility but does not include a health care professional acting within the scope of a professional license or certificate.

(f) “Health care professional” means a medical doctor or doctor of osteopathy, a podiatrist, registered nurse, practical nurse, registered nurse practitioner, physician’s assistant, dentist, optometrist or respiratory care professional licensed under chapter thirty of this code.

(g) "ICF/MR" means an intermediate care facility for the mentally retarded which is certified by the department.

(h) "Medication" means a drug, as defined in section one hundred one, article one, chapter sixty-a of this code, which has been prescribed by a duly authorized health care professional to be ingested through the mouth, applied to the outer skin, eye or ear, or applied through nose drops, vaginal or rectal suppositories.

(l) "Registered professional nurse" means a person who holds a valid license pursuant to article seven, chapter thirty of this code.

(j) "Resident" means a resident of a facility.

(k) "Secretary" means the secretary of the department of health and human resources or his or her designee.

(l) "Self-administration of medication" means the act of a resident, who is independently capable of reading and understanding the labels of drugs ordered by a physician, in opening and accessing pre-packaged drug containers, accurately identifying and taking the correct dosage of the drugs as ordered by the physician, at the correct time and under the correct circumstances.

(m) "Supervision of self-administration of medication" means a personal service which includes reminding residents to take medications, opening medication containers for residents, reading the medication label to residents, observing residents while they take medication, checking the self administered dosage against the label on the container and reassuring residents that they have obtained and are taking the dosage as prescribed.

§16-50-3. Administration of medications in facilities.

(a) The secretary is authorized to establish and implement a program for the administration of medications in facilities. The program shall be developed and conducted in cooperation with the appropriate agencies, advisory bodies and boards.

(b) Administration of medication pursuant to this article shall be performed only by:

(1) Registered professional nurses;

(2) Other licensed health care professionals; or

(3) Facility staff members who have been trained and retrained every two years and who are subject to the supervision of and approval by a registered professional nurse.

(c) Subsequent to assessing the health status of an individual resident, a registered professional nurse, in collaboration with the resident's attending physician and the facility staff member, may recommend

that the facility authorize a facility staff member to administer medication if the staff member:

- (1) Has been trained pursuant to the requirements of this article;
 - (2) Is considered by the registered professional nurse to be competent;
 - (3) Consults with the registered professional nurse or attending physician on a regular basis; and
 - (4) Is monitored or supervised by the registered professional nurse.
- (d) Nothing in this article may be construed to prohibit any facility staff member from administering medications or providing any other prudent emergency assistance to aid any person who is in acute physical distress or requires emergency assistance.
- (e) Supervision of self-administration of medication by facility staff members who are not licensed health care professionals may be permitted in certain circumstances, when the substantial purpose of the setting is other than the provision of health care.

§16-50-4. Exemption from licensure; statutory construction.

- (a) Any individual who is not otherwise authorized by law to administer medication may administer medication in a facility if he or she meets the requirements and provisions of this article. Any person who administers medication pursuant to the provisions of this article shall be exempt from the licensing requirements of chapter thirty of this code.
- (b) All licensed health care professionals as defined in this article remain subject to the provisions of their respective licensing laws.
- (c) Notwithstanding any other provision of law to the contrary, the provisions of this article shall not be construed to violate or be in conflict with any of the provisions of articles seven or seven-a, chapter thirty of this code.

§16-50-5. Instruction and training.

- (a) The office of health facility licensure and certification shall establish a council of nurses to represent the facilities and registered professional nurses affected by the provisions of this article. The council of nurses shall prepare a procedural manual and recommendations regarding a training course to the secretary of the department of health and human resources. The council shall meet every two years to review the training curricula, competency evaluation procedures and rules implemented by the secretary, and shall make recommendations as deemed necessary.

(b) The department shall develop and approve training curricula and competency evaluation procedures for facility staff members who administer medication pursuant to the provisions of this article. The department shall consider the recommendations of the council of nurses and shall consult with the West Virginia board of examiners for registered nurses in developing the training curricula and competency evaluation procedures.

(c) The program developed by the department shall require that any person who applies to act as a facility staff member authorized to administer medications pursuant to the provisions of this article shall:

- (1) Hold a high school diploma or general education diploma;
- (2) Be trained or certified in cardiopulmonary resuscitation and first aid;
- (3) Participate in the initial training program developed by the department;
- (4) Pass a competency evaluation developed by the department; and
- (5) Subsequent to initial training and evaluation, participate in a retraining program every two years.

(d) Any facility may offer the training and competency evaluation program developed by the department to its facility staff members. The training and competency programs shall be provided by the facility through a registered professional nurse.

(e) A registered nurse who is authorized to train facility staff members to administer medications in facilities shall:

- (1) Possess a current active West Virginia license in good standing to practice as a registered nurse;
- (2) Have practiced as a registered professional nurse in a position or capacity requiring knowledge of medications for the immediate two years prior to being authorized to train facility staff members; and
- (3) Be familiar with the nursing care needs of residents of facilities as described in this article.

§16-50-6. Availability of records; eligibility requirements of facility staff.

(a) Any facility which authorizes unlicensed staff members to administer medications pursuant to the provisions of this article shall make available to the authorizing agency a list of the individual facility staff members authorized to administer medications.

(b) A facility may permit a facility staff member to administer medications in a single specific agency only after compliance with all of the following:

(1) The staff member has successfully completed a training program and received a satisfactory competency evaluation as required by the provisions of this article;

(2) The facility determines there is no statement on the state administered nurse aide registry indicating that the staff member has been the subject of finding of abuse or neglect of a long-term care facility resident or convicted of the misappropriation of such a resident's property;

(3) The facility staff member has had a criminal background check or if applicable, a check of the state police abuse registry, establishing that the individual has been convicted of no crimes against persons or drug related crimes;

(4) The medication to be administered is received and maintained by the facility staff member in the original container in which it was dispensed by a pharmacist or the prescribing healthcare professional; and

(5) The facility staff member has complied with all other applicable requirements of this article, the rules adopted pursuant to this article and such other criteria, including minimum competency requirements, as are specified by the authorizing agency.

§16-50-7. Oversight of medication administration by unlicensed personnel.

(a) Each facility in which medication is administered by unlicensed personnel shall establish in policy an administrative monitoring system. The specific requirements of the administrative policy shall be established by the department through rules proposed pursuant to section eleven of this article.

(b) Monitoring of facility staff members authorized pursuant to this article shall be performed by a registered professional nurse employed or contracted by the facility.

§16-50-8. Withdrawal of authorization.

The registered professional nurse who monitors or supervises the facility staff members authorized to administer medication pursuant to this article may withdraw authorization for a facility staff member if the nurse determines that the facility staff member is not performing medication administration in accordance with the training and written instructions. The withdrawal of the authorization shall be documented and shall be relayed to the facility and the department in order to remove the facility staff member from the list of authorized individuals.

§16-5O-9. Fees.

The department may set and collect fees necessary for the implementation of the provisions of this article pursuant to rules authorized by section eleven of this article.

§16-5O-10. Limitations on medication administration.

The following limitations apply to the administration of medication by facility staff members:

- (a) Injections or any parenteral medications may not be administered;
- (b) Irrigations or debriding agents used in the treatment of a skin condition or minor abrasions may not be administered;
- (c) No verbal medication orders may be accepted, no new medication orders shall be transcribed and no drug dosages may be converted and calculated; and
- (d) No medications ordered by the physician or a health care professional with legal prescriptive authority to be given “as needed” may be administered unless the order is written with specific parameters which preclude independent judgment.

§16-5O-11. Rules.

The department shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code as may be necessary to implement the provisions of this article. Subsequently, the department may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code.

REFERENCES

1. Alaska Board of Nursing, Scope of Practice Licensed Practical Nurse, September, 1991.
2. Arizona State Board of Nursing, A Decision-Making Model for Determining RN/LPN Scope of Practice, May 20, 1993.
3. Idaho Board of Nursing, Guidelines for the Delegation of Nursing Activities, August 11, 1994.
4. Kentucky Board of Nursing, Scope of Practice Determination Guidelines, April 1995.
5. National Council of State Boards of Nursing, Inc., Professional Accountability-Using the Collaboration Model for the Identification of Strategies for the Promotion of Professional Accountability, 1995.
6. National Council of State Boards of Nursing, Inc., Delegation: Concepts and Decision-Making Process, November 21, 1995.
7. National Council of State Boards of Nursing, Inc., report of the Task Force to Identify Core Competencies for Nurse Practitioners, 1995.
8. National Council of State Boards of Nursing, Inc., Test Plan for the National Council Licensure Examination for Practical Nurses NCLEX-PN, April 2001.
9. National Council of State Boards of Nursing, Inc., Test Plan for the National Council Licensure Examination for Registered Nurses NCLEX-RN, April 2003.
10. National Council of State Boards of Nursing, Inc., Nurse Aide Competency Evaluation Program (NACEP), Evaluation Blueprint, Effective May 1997.
11. National Council of State Boards of Nursing, Inc., Role Delineation Study: Nursing Activities Performed by Nurses Aides, Licensed Practical/Vocational Nurses, Registered Nurses and Advanced Practice Registered Nurses, 1995.
12. National Council of State Boards of Nursing, Inc., Job Analysis, Nurse Aides Employed in Nursing Homes, Home Health Care Agencies and Hospitals, 2003.
13. National Council of State Boards of Nursing, Inc., Final Report of the Logical Job Analysis Study of Entry-level Nurse Practitioner Practice and Related Test Plan Development, Chauncey Group International, 1997.

14. National Council of State Boards of Nursing, Inc., Job Analysis, Newly Licensed Practical/Vocational Nurses, 2003.
15. National Council of State Boards of Nursing, Inc., Job Analysis, Newly Licensed Entry-Level Registered Nurses, 2004.
16. National Council of State Boards of Nursing, Inc., Summary of Responses to November, 1994 LPN/LVN Scope of Practice Questionnaire, June 12, 1995.
17. Nevada State Board of Nursing, Determining Your Scope of Practice, March 29, 1995.
18. North Dakota Board of Nursing, Decision-Making Model for Determining LPN/RN/APRN Legal Scope of Practice in North Dakota, September 9, 1994.
19. Ohio Board of Nursing, Scope of Practice Decision-Making Model, 1994.
20. Ohio Board of Nursing Standards and Delegation: A Guide to Ohio Board of Nursing Rules, April 2001.
21. QUIN Council of Nursing, Guidelines for the Registered Nurse in Determining Scope of Practice, Florida Nurses Association, August 1996.
22. Merriam-Webster's Collegiate Dictionary, Tenth Edition, Merriam-Webster, Inc., 2001
23. West Virginia Code §30-7 (RN) and §30-7A (LPN).
24. Legislative Rules Title 19 (RN) and Title 10 (LPN)
25. West Virginia Code and Rules related to health care such as Health Facilities Licensure and Certification (Licensing of hospitals, nursing homes, etc., as well as certification of nursing assistants); Education (School Nurse); Board of Pharmacy (appropriate handling of drugs). This reference is not exhaustive.