

November 22, 1993

Lily McAlister, RN, Manager
Health Standards Section
DHH Bureau of Health Services Financing
1201 Capitol Access Road
Baton Rouge, LA 70821-3767

Dear Ms. McAlister:

This is in response to your request for an opinion of the Board of Nursing regarding the delegation of nursing care functions to personal care attendants (PCA) and respite workers in home settings under the "Medicaid Waiver" program.

The Nursing Practice Committee studied the information you sent and other materials, including relevant statutory and regulatory provisions. The Committee could not find any specific statutory authorization for the performance of nursing functions by PCA and respite workers except the provision for the delegation of selected nursing functions by the registered nurse to unlicensed personnel, in which case the following provisions apply.

The Nurse Practice Act, specifically LRS 37:913, (3), (c), provides that a registered nurse may delegate selected nursing functions to licensed and unlicensed personnel, with certain provisos: (1) the Board of Nursing must approve the delegation; (2) there must be no objection to the delegation from the attending physician or dentist, nor from the medical staff of the institution; and (3) the registered nurse must be physically present when the task is performed if such presence is necessary to provide care of the "same quality as provided by the registered nurse."

The Louisiana Administrative Code, specifically LAC 46:XLVII. 3703.A.12, provides criteria which must be met when any delegation takes place, as follows:

- i. The person has been adequately trained for the task.
- ii. The person has demonstrated that the task has been learned.
- iii. The person can perform the task safely in the given nursing situation.
- iv. The patient's status is safe for the person to carry out the task.
- v. Appropriate supervision is available during the task implementation.
- vi. The task is in an established policy of the nursing practice setting and the policy is written, recorded and available to all.

The administrative rules additionally provide specific requirements for delegation to Licensed Practical Nurses, and for delegation to unlicensed persons. The criteria for delegation to unlicensed persons are as follows:

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Contingent upon the registered nurse's evaluation of each patient's condition, and also upon the registered nurse's evaluation of the competency of each unlicensed nursing personnel, registered nurses may delegate non-complex tasks to unlicensed nursing personnel.

The rules then define a non-complex task as "one that can safely be performed according to exact directions, with no need to alter the standard procedure, and the results are predictable." A task is defined as complex if it requires the consideration of a number of factors in order to perform the procedure, or if it requires judgment to determine how to proceed from one step to the next. The administration of medications is specifically identified as a complex task.

The Nursing Practice Committee is concerned that PCA and respite workers may be practicing nursing without a license to do so. Some of their activities could be delegated to them by registered nurses, in accord with the above-cited legal framework. Other tasks, such as the administration of medications, may not be delegated to unlicensed persons because they are complex tasks.

If you need additional information, please feel free to contact the office of the Board of Nursing.

Sincerely,

Barbara L. Morvant, MN, RN
Executive Director

cc: Susan Bowman

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