Purpose
The Board has received reports about confusion regarding the extent of the nurse’s responsibilities when employing the act of Assignment and Supervision and the RN’s responsibilities when employing the act of Delegation Process. The concerns usually relate to the extent of accountability of the licensee involved in either nursing activity. This interpretive statement has been developed to guide the licensee to determine when assignment or when delegation process would be the correct scope of practice authority to implement.

Board Statement
Delegation has a specific meaning in the Nurse Practice Act. OAR 851-045-0035 (9), defines delegation as “…the process an RN uses when authorizing an unlicensed assistive person to perform a nursing procedure for a client while retaining accountability for the outcome.” This rule cites Chapter 851 Division 47 Standards for Community-Based Care Registered Nurse Delegation which pertains to the process of delegation that occurs in community practice settings. These are settings where federal or state regulations do not require twenty-four hour-a-day licensed nurse staffing and where nursing services are provided incidental to the setting. This means the RN is not required to be regularly scheduled and is not available to provide direct supervision. Examples of these community environments are found in OAR 851-047-000 (1).

When engaging in delegation process in a community environment, the individual RN holds sole responsibility and accountability for the education and competency validation of the assistive person to whom the responsibility of performing a nursing procedure is being delegated. This means that in addition to assessing the client and developing a plan of care, the RN is responsible to: assess and determine the knowledge and abilities of the assistive person related to performance of the procedure; assess of the safety of the care environment; teach performance of the nursing procedure to the assistive person; provide the assistive person with written instructions for performance of the procedure that are appropriate to the client’s level of care and to the knowledge base of the assistive person; and to assess and validate the competencies of the assistive person in their safe performance of the procedure on the client. As the community practice environment is not required by federal regulation or state statute to employ nursing staff 24/7, the individual RN practicing in such a setting also holds sole responsibility to provide ongoing and regularly scheduled assessment of the client’s condition, and assessment and supervision of the assistive person’s continued competency in their performance of the nursing procedure on the client, and the continued appropriateness of the delegation.
An example of a nursing procedure as provided in OAR 851-047-0030(1) is the administration of a subcutaneous injectable medication.

The Board interprets the nursing activity of *delegation process* to refer to community practice environments as defined in OAR 851-47. In these environments the individual RN holds sole responsibility for the education and competency validation of the assistive person to whom the performance of a chronically needed and regularly scheduled nursing procedure for a stable client is delegated. The performance of the nursing procedure is delegated as nursing services are provided incidental to the setting; the RN is not statutorily mandated to be in same environment as the client. The RN maintains responsibility and accountability for the delegation of the nursing procedure and retains accountability for the outcome of the procedure delegated.

The Board further interprets situations where a regularly scheduled RN works alongside other licensed nurses and assistive personnel throughout their assigned shift, the nursing activity of *assignment and supervision* is more appropriate. OAR 851-045-0035 (1), defines assign as “…directing and distributing, within a given work period, the work that each staff member is already authorized to perform.”

When the RN is working with another RN or LPN as a care team member, and the activity or procedure to be performed falls within nursing scope of practice, then that activity or procedure is work that the other licensed nurse staff member is already authorized to perform and thus may be assigned by the RN to the other nurse. The LPN may engage in the nursing activity of assignment under the clinical direction of the RN.

When working with a certified nursing assistant (CNA) or certified medication aide (CMA) care team member, and the activity to be performed is listed on the respective authorized duties list found in OAR 851-063, then that activity is work that the CNA/CMA staff member is already authorized to perform and thus may be assigned to the CNA or CMA by the nurse.

When working with a care team member whose role or position within the organization does not require health-related licensure or certification by the state of Oregon, that care team member is recognized by the nurse as an unlicensed employee. When the activity to be performed is within the unlicensed employee’s job duties/position description, with documented education and current competency of the unlicensed employee having been done by the organization employing both the RN and unlicensed employee, then that activity is work that the unlicensed employee staff member is already authorized to perform and thus may be assigned to the unlicensed employee by the RN. Unlicensed employees include, but are not limited to, those in the
following organizational job positions: Medical Assistant (MA), Certified Medical Assistant, Registered Medical Assistant (RMA), Emergency Department Technician, Labor and Delivery Technician, etc.

It is important to note that there may be an occasion when a person who holds state of Oregon-issued health-related licensure or certification is hired into a position where their license or certificate does not apply. This person, in their current position, is an unlicensed employee. Examples of this type of situation include the person employed as an Emergency Department Technician but who happens to hold licensure as an Emergency Medical Technician (EMT), Advanced EMT (AEMT), EMT-Intermediate (EMT-I) or a Paramedic. As the scope of practice for these state-regulated emergency responders is limited to the pre-hospital environment only (OAR 847-035-0030 (1)), their scope does not extend to the in-hospital environment. Therefore the person who holds an EMT, AEMT, EMT-I, or Paramedic license and who works in a technician type or other organizational position, cannot work under their EMT/Paramedic license and scope and therefore are considered an unlicensed employee for the purposes of this interpretive statement. These unlicensed employees will be identified as assistive personnel for the remainder of this statement.

It is the RN’s responsibility to know which activities, tasks, or procedures the assistive personnel have demonstrated through the employing-organization’s competency validation process, allowed by the assistive personnel’s position description, and supported by organizational policy. When working with a CNA or CMA, it is the RN’s responsibility to know which duties, found in OAR 851-063, the employer has approved to be performed by the certificate holder. An employer may determine which authorized duties a CNA/CMA may not perform but cannot add duties beyond those listed in OAR 851-063.

It remains the responsibility of the RN to determine if a patient’s condition is appropriate for activities, tasks, or procedures to be performed by the assistive personnel instead of by the RN directly. However, it is the responsibility of the organization employing both the RN and the assistive personnel to assure that their staff is educated and competency validated to perform the responsibilities of their position within the organization, not the individual RN assigning the activity, task or procedure. Since the RN supervises the assistive personnel in the performance of activities within the RN’s care assignment, the RN must assure that the assistive personnel performs the activity assigned and that there is documentation done by the assistive personnel appropriate to the activity including directing the assistive personnel to report any concerns related to the patient’s condition.
Frequently Asked Questions

1. Q: We have emergency department techs working in our Emergency Department who are EMTs and Paramedics. As the RN, can I assign them tasks contained in the orders that I have signed off?

   A: If the employer has identified that the tasks in question are within the Emergency Department Technician’s position description, and there has been demonstrated/documented competency (based upon the employer’s requirements for competency demonstration) and you determine that the patient’s condition is appropriate for the assistive personnel to perform the task, then yes.

2. Q: What does it mean “the patient’s condition is appropriate”?

   A: It is always the responsibility of the RN to determine that an assistive personnel’s skills match the needs of the patient. If the patient has a history of difficult IV starts, the RN must determine who the best one to successfully complete the task. Sometimes it will be the RN, sometimes the assistive personnel who may have more experience. Example: If the patient’s blood pressure is of concern would it be better for the RN to go in and take the blood pressure while assessing the relation of that pressure to the patient’s condition and stability rather than sending in assistive personnel who do not have assessment in their assigned duties?

3. Q: Can I refuse to delegate on the basis of not wanting anyone else to work under my license?

   A: The phrase “working under my license” is not an accurate one. Your Oregon RN license grants you, and you alone, the privilege to practice registered nursing in Oregon. In fact, it would be conduct derogatory to the standards of nursing to let anyone use your license for any purpose. As an RN, you hold sole responsibility and accountability for the decision to delegate or not to delegate. Nurse Practice Act standards related to RN delegation identify client safety, the unlicensed employee’s competency with performing the procedure, and the ability of the RN to provide proper supervision as some of the factors that will inform the RN’s clinical decision to delegate or not. Please access Division 45 and Division 47 directly for these standards.
References:


Oregon’s Nurse Practice Act.

Oregon Secretary of State (July 14, 2017). Chapter 847 Division 035 Emergency Medical Services Providers and Supervising Physicians.

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The Oregon State Board of Nursing (OSBN) is authorized by Oregon Revised Statutes Chapter 678 to exercise general supervision over the practice of nursing in Oregon to include regulation of nursing licensure, education, and practice in order to assure that the citizens of Oregon receive safe and effective care. The OSBN further interprets statute and rule and issues opinions in the form of policies and interpretive statements, which are advisory in nature and used as guidelines for safe nursing practice.