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Memorandum

To: All Interested Parties
From: Gretchen Koch, MSN, RN
Policy Analyst, Nursing Practice and Evaluation
Date: September 5, 2023
Re: Frequently Asked Questions on recently enacted Oregon Administrative Rules Chapter 851 Division 47 Standards for Registered Nurse Delegation Process

This memorandum contains answers to frequently asked questions about [Oregon Administrative Rules \(OAR\) Chapter 851 Division 047](#) Standards for Registered Nurse (RN) Delegation Process that went into effect on August 1, 2023. The answer to each question is prefaced on the practice of nursing occurring in a community-based setting where the nursing services include RN delegation process.

When an answer indicates that the activity in question falls within scope of practice for an RN, for an LPN, or both, the individual nurse remains responsible to utilize the Board's [Scope of Practice Decision-Making Framework](#) to determine whether the activity falls within their own individual scope of practice.

When an italicized term appears in an answer, the reader is directed to access the memorandum's glossary (p. 5-7) to ensure proper understanding and application of the term. Glossary terms reflect definitions codified in [Oregon Revised Statutes \(ORS\) 678.010](#) and [OAR Chapter 851 Division 006](#).

Frequently asked questions

Q: Is an RN still able to teach caregivers how to administer non-injectable medications? What about the same for prn medications and controlled substances?

A: Yes, to all the above. Teaching an *unregulated assistive person* (UAP) how to administer a *non-injectable medication* remains within scope of the *practice of registered nursing*.

An RN's practice authority to teach non-injectable medication administration to a UAP holds true regardless of whether the non-injectable medication is ordered to be

administered on a regular scheduled or prn basis, the non-injectable medication's ordered administration route, its general drug category or schedule II to V classification.

On August 1, 2022, the standards related to this RN practice authority were enacted in [OAR Chapter 851 Division 045 Standards and Scope of Practice for the Licensed Practical Nurse and Registered Nurse](#). The standards on teaching a UAP how to administer a non-injectable medication are located at OAR 851-045-0060 under standards related to the RN's responsibility for health promotion and teaching.

Q: Is an RN still able to teach caregivers how to administer emergency injectable medications?

A: Yes. On August 1, 2022, the standards related to this RN practice authority were enacted in OAR 851-045-0060 under standards related to the RN's responsibility for health promotion and teaching.

Q: Are subcutaneous injections still a delegated nursing procedure? The language has been taken out of the rules.

A: Yes, the performance of subcutaneous injections may still be considered for delegation. The August 1, 2023, rules now allow the RN to consider absolutely any *nursing procedure* within their client's *plan of care* for delegation to a UAP. It is through the individual RN's application of standards in OAR 851-045 (applicable to the RN in all settings and roles) combined with their application of OAR 851-047 *delegation process* standards, that the RN will arrive at a *clinical judgement* on whether the procedure is appropriate for delegation to their UAP care team member.

Q: It looks like the rule that prohibited the administration of IM injectables has been removed. Does this mean I can delegate the administration of intramuscularly injected vaccinations to a UAP in a community-based setting?

A: No. This is based on an RN's application of OAR 851-047-0030(6): "An RN who is not employed with a licensed home health agency, a licensed home infusion agency, or a licensed hospice agency may only delegate to a UAP the performance of a non-intravenous nursing procedure ordered for the treatment of a client's chronic condition."

Q: I'm an RN and want to know if our LPN can still help in teaching our UAPs how to administer non-injectable medications?

A: The answer to this question will depend on the individual RN and their *plan of care* for their *client*.

The answer is yes when the activity is identified within the RN's plan of care and the RN *assigns* planned teaching-related activities to the LPN to carry out. This applies whether the RN's client is an individual person or a group of UAPs who are employed

in a *community-based setting*. The teaching-related activities assigned by the RN to the LPN must fall within scope of *practical nursing practice* and within the LPN's *individual scope of practice*.

The answer is no when the above-described RN *clinical direction* of LPN practice is not in place.

Q: Is an RN still able to write prn medication parameters?

A: It depends. The *Nurse Practice Act* is silent on this activity which means that an RN is neither expressly prohibited nor expressly authorized to engage in the activity. As such, the RN would utilize the Board's Scope of Practice Decision-Making Framework to determine whether the activity falls within their own *individual scope of practice* and is appropriate to perform in their practice setting according to acceptable and prevailing standards of safe nursing practice.

Q: I have never had to have delegation policies before, why now?

A: It has always been a responsibility of the RN in any practice setting or role to develop and implement policies pertinent to the *practice of nursing* and health services delivery. This responsibility is found in OAR 851-045 Standards related to the RN's responsibility for leadership and quality of care. The Division 047 standard in question reiterates this responsibility for the RN who delegates.

Q: Just for clarification, after the initial training and delegation session, the RN observes the UAP again within 60 days?

A: Yes. Following an RN's initial authorization of their UAP care team member to perform a *nursing procedure* for their *client*, the RN is responsible to evaluate the continued safety of the delegation prior to the expiration of the UAP's authorization period – an authorization period that cannot exceed 60 days. A required activity within the RN's evaluation process is their direct observation of the UAP performing the procedure on the client per the written instructions.

Q: Would you clarify how often the RN assesses the individual to establish that they are in a stable and predictable condition?

A: There is no static or fixed frequency for *assessment*. The frequency of assessment must be determined by the individual RN through their application of their own nursing knowledge and practice experience to their *client's* presenting situation.

Q: What are the recommended delegation and rescinding forms for the RN to use?

A: None. The Board does not publish or recommend specific forms to document an RN's engagement in the *practice of nursing or delegation process*.

Q: The standard that protects RNs who delegate isn't in the new rules. Are RNs still protected?

A: Yes. The standard in question (from the old rules) was a standard that quoted language in ORS 678.036 which sets forth that an RN who delegates "...shall not be subject to an action for civil damages for the performance of a person to whom nursing care is delegated unless the person is acting pursuant to specific instructions from the nurse, or the nurse fails to leave instructions when the nurse should have done so." While not carried forward as a standard in the August 1, 2023, rules, this statute remains the law in the state of Oregon.

Q: I was told the Board is going to make care providers use the written instructions each time they perform a nursing procedure on a client. How am I supposed to force the UAP to use the instructions each time?

A: The Board of Nursing holds no jurisdictional authority over any *UAP*. The Board's jurisdictional authority is over the individual licensed nurse.

The Division 047 standard states the following: "Instruct the UAP to utilize the instructions each time they perform the *nursing procedure* for the *client*." This means that an RN has met the standard when they have communicated or given knowledge to (i.e., instruct) their UAP care team member to reference the instructions each time they perform the procedure. Including this requirement in the step-by-step instructions would also provide documented proof of the RNs instructions/directions.

The question now becomes "How does an RN direct their UAP care team member to reference the instructions and convey the importance of following the instructions?" Such a decision must be made by the RN based on their individual client's presenting situation. Many factors will be considered by the RN as they generate the best possible decision to deliver safe client care. It is important to remember that in addition to written instructions identifying the serial and sequential steps necessary for preparation, performance and completion of a nursing procedure (or for multiple and linked nursing procedures), the instructions also identify potential adverse reactions and emergencies to be observed for in the client and actions for the UAP to take in response to those observations.

Q: Do I have to go back and change all my pre-existing delegations to be consistent with these new rules?

A: The new rules are to be applied by an RN going forward. In other words, any *delegation process* activities engaged by the RN on or after August 1, 2023, must be done so in adherence to the new rules.

Example: For an existing (pre-August 1, 2023) delegation that is now due for what was formerly called “periodic inspection, supervision and reevaluation”, an RN would apply the new 851-047-0050 standards in determining the ongoing safety of that delegation for their *client*.

Glossary

Assessment means the first step in the nursing process. In this phase, subjective and objective data is gathered about the patient, client, family, or community that the nurse is working with. Objective data, or data that can be collected through examination, is measurable. This may include vital signs or observable behaviors. The data is analyzed and evaluated by the registered nurse (RN) to develop the plan of care. Data may be collected by other healthcare providers; however, the RN is accountable for validating the information in order to develop the plan of care. This definition is also applicable to the term “comprehensive nursing assessment”.

Assign means directing and distributing, within a given work period, the work that each health care team member is already authorized by license or certification and organizational position description to perform.

Client means an individual, family, facility resident or group engaged in a professional relationship with a licensee and the recipient of nursing services. For the purposes of these rules the terms “client”, “patient” and “resident” are interchangeable and have the same meaning.

Clinical direction means the communication between the registered nurse (RN) or licensed independent practitioner (LIP) to the licensed practical nurse (LPN) for the implementation of the nursing plan of care or provider treatment plan. The LPN communicates any concerns or issues regarding the plan implementation. The RN or LIP must review the LPN communication to determine if the plan requires revision. Any revisions are communicated to the LPN for implementation. While clinical direction does not specifically require supervision of tasks or interventions directed by the plan of care or treatment plan, the LPN may not implement these interventions unless part of the education program preparing the LPN for licensure or competency has been validated.

Clinical judgment means the observed outcome of critical thinking and decision making. It is an iterative (repetitive) process that uses nursing knowledge to observe and assess presenting situations, identify a prioritized client concern and generate the best possible evidence-based solution to deliver safe client care.

Community-based setting means a setting that does not exist primarily for the purposes of providing nursing or medical services, but where nursing services could be required intermittently. These settings include adult foster homes, assisted living facilities, child foster homes, schools, and twenty-four-hour residential care facilities.

Context of care means the environment where the practice of nursing occurs. Defining a specific context of care includes, but is not limited to, the following variables: the location where the client receives nursing services (e.g., practice setting), the licensee's practice role within the setting, the regulations of the setting that impact nursing services delivery, policies and procedures of the setting, professional and specialty nursing practice standards applicable to the nurse's practice role, and the ability of the client to self-direct the nursing strategies or interventions to which they have given their consent.

Delegation process means the process utilized by a registered nurse (RN) to authorize an unregulated assistive person to perform a nursing procedure for a client for which the RN retains accountability for the outcome. The delegation process must only occur in those settings that do not mandate the presence of 24/7 nursing services per any law, rule, or regulation.

Individual scope of practice means an individual licensee's demonstrated competency that has been developed and maintained through practice experience and through engagement in independent and formal learning experiences. Individual scope of practice is based on the licensee having the knowledge, skills, abilities, and competencies necessary to accept a client assignment, perform a procedure or intervention and take on different roles within the practice of nursing. The Scope of Practice Decision Making Framework is used by the Board to establish if a nurse is working in or out of scope. Scope of practice applies only to nurses. Certified nursing assistants and medication aides do not have a scope of practice; they have authorized duties identified in Board rule.

Non-injectable medication means any medication, including controlled substances, which is not administered by the arterial, intradermal, subcutaneous, intramuscular, intraosseous, epidural, intrathecal or intravenous route.

Nurse Practice Act means Oregon Revised Statute (ORS) 678.010 through 678.448 and Oregon Administrative Rules (OAR) Chapter 851 inclusive of all divisions.

Nursing procedure means a health-related procedure commonly taught in nursing education programs and normally performed by the registered nurse or licensed practical nurse when implementing the nursing plan of care.

Plan of care means the comprehensive plan authored by the registered nurse (RN) that communicates the client's prioritized problems or risks; identifies measurable client outcomes related to the problems or risks; and identifies the nursing strategies and interventions chosen to address the identified problems or risks. The plan of care is developed by the nursing process and can only be authored by the RN. The advanced practice registered nurse's care orders are also considered a plan of care.

Practice of nursing means autonomous and collaborative care of persons of all ages, families, groups and communities, sick and well, and in all settings to promote health and safety, including prevention and treatment of illness and management of changes throughout a person's life.

Practice of practical nursing means the application of knowledge drawn from basic education in the social and physical sciences in planning and giving nursing care and in assisting persons toward achieving of health and well-being.

Practice of registered nursing means the application of knowledge drawn from broad in-depth education in the social and physical sciences in assessing, planning, ordering, giving, delegating, teaching and supervising care that promotes the person's optimum health and independence.

Unregulated assistive person (UAP) means a person whose position description or job within an organization or client healthcare team does not require licensure or certification by a state of Oregon health related licensing agency. The UAP includes, but is not limited to, the person working in the following positions: medical assistant, certified medical assistant, registered medical assistant, home care worker, emergency department technician, labor and delivery technician, direct care staff, traditional health worker, volunteer. Status as a UAP includes those who have state of Oregon issued health-related licensure or certification but who holds into a position where their license or certificate is not a requirement. A licensee or certificate holder working as a UAP must not count the hours worked towards licensure or certificate renewal.

Additional questions:

Questions concerning OAR 851-047 may be submitted to osbn.practicequestion@osbn.oregon.gov.

Disclaimer

Content is based on Oregon's Nurse Practice Act (NPA) Chapter 678 Oregon Revised Statutes (ORS) and Chapter 851 Oregon Administrative Rules (OAR). Information communicated is intended for general knowledge only. Information communicated is not legal advice related to Oregon Nursing Law.