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Memorandum

To: All Interested Parties

From: Gretchen Koch RN, MSN
Policy Analyst, Nursing Practice and Evaluation

Date: July 29, 2022

Re: Delay in Implementation of OAR 851-047 *Standards for Registered Nurse Delegation Process*; Discussion of Rule Updates.

On September 16, 2021, the Board of Nursing approved amendments to Chapter 851 Division 047 *Standards for RN Delegation Process* rules. The enactment date of the updated rules is yet to be determined by the Board.

Below is a summary of the September 16, 2021, Board-approved amendments along with an unofficial courtesy copy of these rules. It is recommended that the RN who utilizes delegation process in their community-based nursing practice read the pending rules in their entirety to identify anything that differs from their current engagement in delegation process.

Rules removed:

- Standards on teaching of noninjectable medication administration and teaching the performance of tasks for an anticipated emergency are removed from Division 047. These standards are currently located in, and will remain in, Chapter 851 Division 045.
- Standards on civil liabilities protection pursuant to ORS 678.036 are removed from Division 047. This law remains in the chapter 678 statutes and continues to provide specific civil liability protections to the RN who delegates.
- The standard on rescinding a UAP's authorization to perform a nursing procedure for a client based on the skill of the UAP, the longevity of their relationship with the client, and the client's condition is removed. This means as of August 1, 2022, the RN may no longer rescind a UAP's authorization to perform a nursing procedure for their client and then assign the performance of the very same nursing procedure to the same UAP.
- Prohibition of the delegation of the performance of intramuscular injections to a UAP is removed from the rules. This means as of August 1, 2022, the RN *may consider* for delegation the performance of an intramuscular injection to a specific UAP to perform for the purposes of the ongoing treatment or maintenance of a client's chronic condition.

Rules renumbered and clarified

Rule number 851-047-0000 presents a concise summary and purpose of the rules.

Rule number 851-047-0030 identifies general provisions that apply to the RN who engages in delegation process. Updates to this rule number clarify the RN's responsibility to decline to delegate when the RN is not prepared to accept accountability for the outcome of that decision. Clarifies the RN's responsibility to document their delegation process decisions, actions, and outcomes pursuant to OAR 851-045 documentation standards. The general provisions also clarify that an RN's authorization of a UAP to perform a nursing procedure for a client ends when the RN ends their therapeutic relationship with that client.

Rule number 851-047-0045 identifies the process an RN must use to authorize a UAP's performance of a nursing procedure for a specific client. Note: While all delegation process steps identified in the August 1, 2019, rules remain, multiple clarifications are made.

A new standard under this rule number identifies the RN's responsibility to document a recommendation that identifies how the client might continue to receive their ordered nursing procedure in the event the RN is no longer a member of the client's health care team and the procedure remains ordered for the client.

Rule number 851-047-0050 contains standards on the RN activity formerly known as periodic inspection, supervision and re-evaluation. Under the revised rule number heading of *Ongoing RN Evaluation of the Safety of the Delegation*, the standards identify the RN's responsibility to provide ongoing assessment of the client and their situation, and to provide ongoing supervision and evaluation of the UAP's performance of the nursing procedure on the client. The clarified rules identify RN actions to be taken based on the RN's assessment of the presenting situation.

Rule number 851-047-0055 identifies limitations on the RN's delegation of the administration of medication by the intravenous route.

Rule number 851-047-0060 contains standards on rescinding a UAP's authorization to perform a nursing procedure on a client. Note that the August 1, 2019 rules list five situations where rescinding delegation is appropriate; the January 1, 2022 rules contain eight. Clarified also is the RN's responsibility to document the date, *time* and reason the UAP is no longer authorized to perform the nursing procedure for the client and to inform the UAP and other health care team members that the UAP is no longer authorized to perform the nursing procedure for the client.

Rule number 851-047-0065 clarifies standards formally known as delegation transfer standards. This rule number identifies the decisions and actions required by the RN who hands-off nursing services provision and delegation process responsibilities for their client and a specific UAP to another RN. Standards under this rule number clarify the responsibility of the RN to hand-off only to an RN who is prepared to accept both the responsibilities of the hand-off and ensure the safety of the client. The standards also clarify that the RN making the hand-off is

responsible to document the effective date and time the UAP's authorization to perform the nursing procedure under their delegated authority ends; the effective date and time their therapeutic relationship with the client ends; and the name of the RN who has formally accepted the hand-off.

Rule number 851-047-0070 clarifies standards formally known as delegation transfer standards. This rule number applies to the RN who is presented with a hand-off of nursing services responsibilities and delegation process responsibilities for a client and a specific UAP from another RN. Standards under this rule number identify the conditions under which acceptance of the hand-off may be considered by the RN. For the RN who accepts the hand-off, the standards clarify criteria for the RN's determination of the length of the UAP's authorization period for performing the nursing procedure for the client under their delegated authority. The standards also the RN's responsibility to document the date and time the hand-off is accepted (i.e., when they become responsible for the client); the date and time the UAP is authorized under their delegated authority to perform the nursing procedure for the client; and the length of the time the UAP is authorized under their delegated authority to perform the nursing procedure for the client. The RN is also responsible to document their own recommendation that identifies how the client might continue to receive their ordered nursing procedure in the event the RN is no longer a member of the client's health care team and the procedure remains ordered for the client.

Again, the RN who utilizes delegation process in their community-based nursing practice is advised to read the pending rules in their entirety to identify anything that differs from their current practice.

Standards for RN Delegation Process

851-047-0000 – Enactment date to be determined

Rule Summary, Statement of Purpose and Intent

- (1) These rules identify registered nurse (RN) delegation process responsibilities. Pursuant to OAR chapter 851 division 006, delegation process means the process utilized by an RN to authorize an unregulated assistive person (UAP) to perform a nursing procedure for a client, the outcome of which the RN retains accountability for;
- (2) The RN may only apply these rules when the client's environment of care is a community-based setting. Pursuant to OAR chapter 851 division 006, community-based setting means a setting that does not exist primarily for the purposes of providing nursing or medical services, but where nursing service could be required intermittently. These settings include private homes, foster homes, assisted living facilities, schools and 24-hour residential care facilities.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150 Hist.: NB 2-1988, f. & cert. ef. 6-24-88; NB 7-1989(Temp), f. & cert. ef. 10-4-89; NB 2-1990, f. & cert. ef. 4-2-90; NB 8-1992, f. & cert. ef. 7-27-92; Renumbered from 851-045-0011; BN 3-1998, f. & cert. ef. 3-13-98; Administrative Correction 5-12-98; BN 2-1999, f. & cert. ef. 3-16-99; BN 5-2004, f. & cert. ef. 2-26-04

851-047-0030 - Enactment date to be determined

Delegation Process General Provisions

- (1) Delegation process must be carried out in accordance with these rules;
- (2) The decision to authorize a UAP to perform a client's nursing procedure remains with the RN.
- (3) The RN who is not prepared to accept accountability for the outcome of a nursing procedure performed by a UAP must decline to delegate.
- (4) The RN is responsible for ensuring that the policies of the setting, or the policies supporting the RN's practice role, support RN delegation process pursuant to these rules.
- (5) Only an RN who is an employee of a licensed home health agency, a licensed home infusion agency, or a licensed hospice agency may authorize a UAP to perform intravenous (IV) medication administration that is ordered to treat a client's chronic condition or infection.
- (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.
- (7) The RN must document all delegation process decisions, actions and outcomes pursuant to OAR 851-045.
- (8) The registered nursing practice components of assessment, identification of actual or potential risk, outcome identification, planning and evaluation must not be delegated to a UAP.
- (9) The RN's authorization of a UAP to perform a nursing procedure for a client ends when the RN ends their therapeutic relationship with the client.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150

Hist.: NB 2-1988, f. & cert. ef. 6-24-88; NB 7-1989 (Temp), f. & cert. ef. 10-4-89; NB 2-1990, f. & cert. ef. 4-2-90; NB 8-1992, f. & cert. ef. 7-27-92; Renumbered from 851-045-0011; BN 3-1998, f. & cert. ef. 3-13-98; Administrative Correction 5-12-98; BN 5-2004, f. & cert. ef. 2-26-04

851-047-0045 - Enactment date to be determined

Delegation Process - RN Authorization of an Unregulated Assistive Person's Performance of a Nursing Procedure

- (1) The RN may proceed with delegation process only when the RN determines, based on the analysis of evidence and data, that their client's situation meets all of the following outcomes:
 - (a) The client's response to the condition for which the nursing procedure is ordered is stable and predictable;
 - (b) The client does not require assessment during performance of the procedure;
 - (c) The performance of the nursing procedure does not require interpretation or independent decision-making;
 - (d) The results of performing the nursing procedure are reasonably predictable;
 - (e) The selected client and circumstances of the delegation are such that the consequences of performing the nursing procedure are not life-threatening and delegation of the procedure's performance to the UAP poses minimal risk to the client;
 - (f) The client's environment of care supports the safe performance of the nursing procedure for the client by the UAP;
 - (g) The nursing procedure will be performed by the UAP at a frequency that would allow for the UAP's continued safe performance;
 - (h) The UAP possesses the skills necessary for learning and safely performing the nursing procedure;
 - (i) The UAP communicates that they are willing and able to perform the nursing procedure for the client;
 - (j) The RN has the appropriate resources to fulfill nursing practice and delegation process responsibilities with the client and the UAP including:
 - (A) Availability to provide ongoing assessment of the client at the frequency deemed necessary by the RN in order to determine the ongoing stability and predictability of the client's responses to their condition; and
 - (B) Availability to provide ongoing competency validation of the authorized UAP's performance of the nursing procedure for the client.
- (2) The RN must educate the UAP on, and evaluate their learned knowledge of, content that includes at a minimum:

- (a) Information about the nursing procedure and why it is necessary in the management or treatment of the client's condition; and
 - (b) Written step-by-step evidence-based instructions on the performance of the nursing procedure for the client that are respectful of the client's needs, choices and dignity, written in a manner that is understood by the UAP, and that at a minimum identify:
 - (A) How to perform the nursing procedure for the client;
 - (B) Infection control practices when performing the nursing procedure;
 - (C) Client risks associated with the nursing procedure's performance;
 - (D) Observation of the client including desired effects, side effects, potential adverse reactions and emergencies related to performance of the nursing procedure on the client;
 - (E) Actions to take in response to observations; and
 - (F) Documentation requirements when performing the nursing procedure.
- (3) After completing the education and evaluation processes in section number (2), the RN must provide a one-on-one education and evaluation experience with the UAP and the client.
- (a) During the experience, the RN must:
 - (A) Address questions the UAP and client may have;
 - (B) Amend the written instructions as deemed appropriate by the RN; and
 - (C) Validate the UAP's adherence to the written instructions by direct observation of the UAP in their performance of the nursing procedure on the client.
 - (b) The RN who validates the UAP's accurate performance of the nursing procedure on the client pursuant to subsection (a) may initially authorize the UAP to perform the nursing procedure for the client for a period not to exceed 60 days. The authorization period chosen for the UAP by the RN must be based on the RN's evaluation of factors that include but are not limited to:
 - (A) The nursing procedure delegated;
 - (B) Whether the RN has authorized the same UAP to perform the same nursing procedure previously;
 - (C) The length of time the RN has worked with the UAP as a health care team member;
 - (D) The frequency of client assessment deemed necessary by the RN to determine the ongoing stability and predictability of the client's responses to their condition; and
 - (E) The client's responses to other actual or potential health problems that may impact the client's responses to the condition for which the nursing procedure is ordered.
 - (c) The RN must:
 - (A) Document the length of the UAP's authorization period and data supporting the decision;
 - (B) Leave a copy of the written instructions for the UAP to access in the client's environment of care;
 - (C) Instruct the UAP to utilize the instructions each time they perform the nursing procedure for the client;
 - (D) Instruct the UAP that their time-limited authorization to perform the nursing procedure for the client is specific to this one client only, is not transferable to any other client, and does not allow them to teach anyone else how to perform the nursing procedure;
 - (E) Document a recommendation that identifies how the client might continue to receive their ordered nursing procedure in the event the RN is no longer a member of the client's health care team and the procedure remains ordered for the client. The RN must ensure the recommendation is:
 - (i) Appropriate to the context of care;
 - (ii) Based on appropriate resources;
 - (iii) Kept current;
 - (iv) Made accessible in the client's environment of care; and
 - (v) Communicated with other health care team members who need to know.
 - (F) Update the plan of care to identify that performance of the client's nursing procedure has been delegated to a UAP; and

- (G) Continue to engage in nursing practice with the client pursuant to OAR 851-045.

Stat. Auth.: ORS 678.150

851-047-0050 - Enactment date to be determined

Delegation Process - Ongoing RN Evaluation of the Safety of the Delegation

- (1) The RN must complete an evaluation of the continued safety of the delegation prior to the expiration of the UAP's authorized period for performance of the nursing procedure for the client.
- (2) The RN's evaluation must include:
 - (a) Assessment of the client in their environment of care; and
 - (b) Validation of the UAP's adherence to the written instructions in their performance of the nursing procedure for the client that at a minimum includes:
 - (A) Evaluation of the UAP's documentation of performance of the nursing procedure;
 - (B) Address to questions or concerns the UAP and client may have; and
 - (C) Direct observation of the UAP in their performance of the nursing procedure on the client.
- (3) RN clinical judgment and actions:
 - (a) The RN who concludes that the client's response to their condition is unstable or unpredictable, or who determines that the UAP does not adhere to the written instructions, must rescind the UAP's authorization to perform the nursing procedure for the client.
 - (A) The RN must document the date and time the UAP's authorization has been rescinded and reason for rescinding;
 - (B) The action must be communicated to the UAP and to other health care team members who need to know;
 - (C) The RN must advocate for the client to receive appropriate care; and
 - (D) The RN who fails to rescind pursuant subsection (a) may be found to demonstrate conduct derogatory to the practice of nursing.
 - (b) The RN who concludes that the client's response to their condition remains stable and predictable, and who validates the UAP's adherence to the written instructions in their performance of the nursing procedure on the client, may authorize the UAP's continued performance of the nursing procedure for the client for a period not to exceed 180 days.
 - (A) The RN who chooses to authorize the UAP's continued performance of the nursing procedure for the client must:
 - (i) Document the length of the UAP's authorization period and data supporting the decision pursuant to criteria identified in 851-047-0045(3)(b)(A) through (E);
 - (ii) Communicate the duration of the UAP's authorization period with other health care team members who need to know;
 - (iii) Ensure a copy of the written instructions are accessible to the UAP in the client's environment of care;
 - (iv) Instruct the UAP to utilize the instructions each time they perform the nursing procedure for the client;
 - (v) Instruct the UAP that their time-limited authorization to perform the nursing procedure for the client is specific to this one client only, is not transferable to any other client, and does not allow them to teach anyone else how to perform the nursing procedure;
 - (vi) Ensure the RN recommendation pursuant to 851-047-0045(3)(c)(E)(i) through (v) continues to meet the standards and update as deemed necessary by the RN.
 - (B) Thereafter, and prior to the end of each subsequent RN-authorized period for the UAP's continued performance of the nursing procedure for the client, the RN must complete an evaluation of the continued safety of the delegation pursuant to 851-047-0050(1) through (3).

- (4) The RN may assign validation of the UAP's adherence to the written instructions in their performance of the nursing procedure for the client to another RN who accepts the assignment. The RN who makes the assignment must:
- (a) Assign only to the RN who possesses the competencies necessary to perform the responsibilities of the assignment;
 - (b) Generate a record of the assignment that identifies at a minimum:
 - (A) The reason for separation of client assessment and UAP competency validation responsibilities;
 - (B) Responsibilities of the assignment;
 - (C) The name of the RN to whom the assignment is made and accepted;
 - (D) How the clinical supervision of the RN will occur; and
 - (E) How the effectiveness of the assignment will be evaluated.
 - (c) Ensure that the written instructions for performance of the nursing procedure are consistent with any provisions of the assignment and clearly identify whom the UAP is to contact when issues arise; and
 - (d) Communicate to the client, the UAP and other health care team members the name of the RN accepting the assignment and their role within the health care team.

Stat. Auth.: ORS 678.150

851-047-0055 - Enactment date to be determined

Delegation Process - Limitations on the RN's Delegation of the Administration of Medication by the Intravenous Route

- (1) The RN who is an employee of a licensed home health agency, a licensed home infusion agency or a licensed hospice agency may authorize a UAP to administer medication by the intravenous (IV) route provided the following conditions are met:
 - (a) The RN adheres to the requirement of these rules;
 - (b) Nursing procedures for consideration for delegation are limited to the administration of a pre-measured IV flushing solution, flushing an IV line with a routine pre-measured flushing solution, changing a pre-measured bag of IV fluid, adding a pre-measured IV medication to an existing IV line, and the administration of a bolus of IV medication by using a preprogrammed delivery device;
 - (c) Initiating or discontinuing an IV line is prohibited from delegation to a UAP;
 - (d) All pre-measured flushing solutions, bags of fluid and doses of medication must be reviewed by the dispensing pharmacy; and
 - (e) The RN who authorizes a UAP to administer a medication by the IV route must be accessible to provide 24-hour consultation to the UAP and client including on-site intervention as needed by the UAP and the client. These additional responsibilities must be provided by the RN who delegates or by an RN designee who is employed by the same licensed home health agency, licensed home infusion agency, or licensed hospice agency as the RN who delegated the nursing procedure.
- (2) The RN may only delegate the administration of medications by the IV route as described in these rules.

Stat. Auth.: ORS 678.150

851-047-0060 - Enactment date to be determined

Delegation Process - Rescinding the UAP's Authorization to Perform a Nursing Procedure on a Client

- (1) The RN is responsible for rescinding their authorization of the UAP's performance of a nursing procedure for their client in any of the following situations:
 - (a) The client's response to their condition for which the nursing procedure is ordered becomes unstable or unpredictable;

- (b) The UAP demonstrates the inability to adhere to the written instructions for performance of the nursing procedure for the client;
 - (c) The nursing procedure cannot be performed by the UAP at a frequency that allows for its continued safe performance;
 - (d) The nursing procedure is discontinued;
 - (e) The UAP no longer works with the client;
 - (f) The client's environment of care is not safe for performance of the nursing procedure by a UAP;
 - (g) The RN is no longer able to provide ongoing evaluation of the safety of the delegation; or
 - (h) The RN ends their therapeutic relationship with the client.
- (2) The RN who rescinds a UAP's authorization to perform a nursing procedure for their client must:
- (a) Document the date, time and reason the UAP is no longer authorized to perform the nursing procedure for the client; and
 - (b) Inform the UAP and other health care team members that the UAP is no longer authorized to perform the nursing procedure for the client.

Stat. Auth.: ORS 678.150

851-047-0065 - Enactment date to be determined

Hand-off of Nursing Services Provision and Delegation Process Responsibilities for a Client and a UAP to Another RN

The RN who is terminating their therapeutic relationship with a client may hand-off nursing services responsibilities for the client and delegation process responsibilities for a client's UAP care team member to another RN who accepts. The RN who initiates the hand-off must:

- (1) Hand-off only to the RN who is prepared to:
 - (a) Accept the responsibilities of the hand-off; and
 - (b) Ensure the safety of the client.
- (2) Synchronously meet, and generate a record of meeting, with the RN accepting the hand-off to facilitate a safe transition that includes a transfer of knowledge about the client and their situation;
- (3) Document into the client's record and communicate with the client, the UAP and other health care team members who need to know:
 - (a) The effective date and time the UAP's authorization to perform the nursing procedure under their delegated authority ends;
 - (b) The effective date and time their therapeutic relationship with the client ends; and
 - (c) The name of the RN who has formally accepted the hand-off.

Stat. Auth.: ORS 678.150

851-047-0070 - Enactment date to be determined

Accepting a Hand-off of Nursing Services Provision and Delegation Process Responsibilities for a Client and a UAP from Another RN

- (1) The RN may consider the acceptance of a hand-off of nursing services provision and delegation process responsibilities for a client and a UAP from another RN under the following conditions:
 - (a) The responsibilities of the hand-off are within the RN's individual scope of practice;
 - (b) The hand-off occurs synchronously from the RN who currently provides nursing services for the client and has currently authorized the UAP to perform the client's nursing procedure;
 - (c) The RN synchronously meets, and generates a record of meeting, with the RN making the hand-off to receive a transfer of knowledge about the client and their situation.
 - (d) The RN determines, based on the analysis of evidence and data, that the client's situation meets all of the following outcomes:
 - (A) The client's response to the condition for which the nursing procedure is ordered is stable and predictable;
 - (B) The client does not require assessment related to the nursing procedure's performance;

- (C) The performance of the nursing procedure does not require interpretation or independent decision-making;
- (D) The results of performing the nursing procedure are reasonably predictable;
- (E) The selected client and circumstances of the delegation are such that the consequences of performing the nursing procedure are not life-threatening, and delegation of the nursing procedure's performance to the UAP poses minimal risk to the client;
- (F) The client's environment of care supports the safe performance of the nursing procedure by the UAP;
- (G) The nursing procedure will be performed by the UAP at a frequency that would allow for the procedure's continued safe performance; and
- (H) The UAP's documentation of their performance of the nursing procedure demonstrates adherence to the written instructions.
- (I) The RN has the appropriate resources to fulfill nursing practice and delegation process responsibilities with the client and the UAP including:
 - (i) Availability to provide ongoing assessment of the client at the frequency deemed necessary by the RN to determine the ongoing stability and predictability of the client's responses to their condition; and
 - (ii) Availability to provide ongoing competency validation of the authorized UAP's performance of the nursing procedure for the client.
- (e) The teaching content on the client's condition and performance of the nursing procedure meets the requirements of these rules;
- (f) The written instructions for the UAP's performance of the nursing procedure for the client meet the requirements of these rules;
- (g) The RN provides a one-on-one experience with the UAP and the client that includes:
 - (A) Address to questions the UAP and client may have;
 - (B) Amendment of the written instructions as deemed appropriate by the RN; and
 - (C) Direct observation of the UAP in their performance of the nursing procedure on the client.
- (2) The RN who adheres to section number (1) and who validates the UAP's accurate performance of the nursing procedure on the client, holds the authority to accept the hand off and authorize the UAP to perform the nursing procedure for the client under their delegated authority;
- (3) The RN who makes the decision to accept the hand-off must document:
 - (a) The date and time the hand-off is accepted and nursing services provided to the client become their responsibility;
 - (b) The date and time the UAP is authorized under their delegated authority to perform the nursing procedure for the client;
 - (c) The length of the UAP's authorization period for performing the nursing procedure for the client that must not exceed 60 days based on criteria at 851-047-0045(3)(b)(A) through (E); and
 - (d) Pursuant to 851-047-0045 (3)(c)(E), a recommendation that identifies how the client might continue to receive their ordered nursing procedure in the event the RN is no longer a member of the client's health care team and the procedure remains ordered for the client.
- (4) Prior to the expiration of the UAP's authorized period for performance of the nursing procedure for the client, the RN must complete an evaluation of the safety of the delegation pursuant to OAR 851-047-0050(1) through (3).

Stat. Auth: ORS 678.150