

NEW RULE 8.32.1722 DELEGATION

8.32.1721 PURPOSE (1) The purpose of these rules relating to delegation and assignment is:

(a) to serve as a standard for nurses who hire, supervise, and/or serve as a delegator to unlicensed assistive personnel (UAP); and

(b) to establish minimal acceptable levels of safe and effective delegation. (History: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p. 1022, Eff. 7/1/05.)

8.32.1722 DEFINITIONS The following words and terms as used in this sub-chapter have the following meanings:

(1) "Accountability" means the responsibility of the delegating nurse for the decision to delegate, for verifying the competency of the UAP delegatee, and for supervising the performance of the delegated task.

(2) "Acute care" means health care received in response to a particular episode of illness or injury, delivered in a licensed healthcare facility that has an organized medical staff, which may include advanced practice registered nurse (APRN) providers, and provides care by licensed registered nurses.

(3) "Advanced delegation" means delegation of specified advanced nursing tasks to specified UAPs only as allowed in ARM 8.32.1729, 8.32.1730, 8.32.1731 and 8.32.1732 and under immediate supervision.

(4) "Assignment" means giving to a UAP or licensee a specific task that the UAP or licensee is competent to perform and which is within the UAP's area of responsibility or a licensee's area of accountability or scope of practice.

(5) "Chief nursing officer" means the nurse who:

(a) directs the facility's nursing services;

(b) establishes nursing policies and procedures; and

(c) establishes nursing standards of patient care, treatment, and services specific to the facility.

(6) "Community based residential setting" means a setting in which the client lives in the client's own home or apartment, home of a relative, foster home, or group home.

(7) "Competency" means performance standards including demonstrated skills, knowledge, abilities and understanding of specific tasks that are required in a specific role and setting.

(8) "Delegatee" means the UAP receiving the delegation.

(9) "Delegation" means the act of authorizing and directing a UAP to perform a specific nursing task in a specific situation in accordance with these rules.

(10) "Delegator" means the nurse who makes the decision to delegate and thereby assumes accountability as defined in this rule. The term "delegator" has the same meaning as the term "delegating nurse".

(11) "Direct supervision" means the nurse delegator is on the premises, and is quickly and easily available to the UAP.

(12) "Fundamentals of nursing course" means a nursing course that provides an introduction to the art and science of nursing practice and human care. Introduction to the concepts of clinical judgment, nursing principles, nursing process, communication skills, and the role of the nurse are included.

(13) "Good academic standing" means a student nurse who is currently enrolled and not on academic probation.

(14) "Immediate supervision" means the nurse delegator is on the premises and is within audible and visual range of the patient that the UAP is attending.

(15) "Indirect supervision" means the nurse delegator is not on the premises but has previously given written instructions to the UAP for the care and treatment of the patient and is readily available to the delegatee either in person or by telecommunication.

(16) "Nursing assessment" means an ongoing process of determining nursing care needs based upon collection and interpretation of data relevant to the health status of the patient.

(17) "Nursing judgment" means the intellectual process that a nurse exercises in forming an opinion and reaching a clinical decision based upon analysis of the evidence or data.

(18) "Nursing student" means a person currently enrolled and studying in a state nursing board-approved or state nursing commission-approved nursing education program.

(a) Enrollment includes all periods of regularly planned educational programs and all school scheduled vacations and holidays.

(b) Enrollment does not include any leaves of absence or withdrawals from the nursing program, or enrollment solely in academic non-nursing course work.

(19) "Nursing task" means an activity that requires judgment, analysis, or decision-making based on nursing knowledge or expertise and one that may change based on the individual client or situation.

(20) "Pharmacology course" means a nursing course that introduces the student to the basic principles of pharmacology in nursing practice and the skills necessary to safely administer medications. Students will be able to demonstrate accurate dosage calculations, correct medication administration, knowledge of drug classifications and therapeutic and nursing implications of medication administration.

(21) "Stable" means a state of health in which the prognosis indicates little, if any, immediate change.

(22) "Supervision" means the provision of guidance or direction, evaluation and follow-up by the licensed nurse for accomplishment of a nursing task delegated to a UAP.

(23) "Unlicensed assistive person" or "UAP" means any person, regardless of title, who is not a licensed nurse and who functions in an assistive role to the nurse and receives delegation of nursing tasks and assignment of other tasks from a nurse. (History: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p.\_\_\_\_, Eff. 7/1/05.)

8.32.1723 ACCOUNTABILITY (1) The delegating nurse retains accountability for:

- (a) the decision to delegate;
- (b) the delegated task;
- (c) verifying the delegatee's competency to perform the task; and
- (d) providing supervision. (History: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p. 1022, Eff. 7/1/05.)

8.32.1724 CRITERIA FOR DELEGATION OF NURSING TASKS

(1) A licensed nurse may only delegate nursing tasks to UAPs in accordance with these rules. Delegation of a nursing task to a UAP shall be based solely on the determination of the patient's nurse, who has personally assessed the patient's condition, that delegation can be performed without jeopardizing the patient's welfare. Delegation shall be task-specific, patient-specific, and UAP-delegatee specific.

(2) Delegation may only be performed in settings which have a designated chief nursing officer.

(3) The delegating nurse must:

(a) personally make a nursing assessment of the patient's care needs before delegating;

(b) verify the UAP's competency to perform the specific task for the specific patient and provide instruction as necessary followed by reverification of competency before delegating;

(c) provide supervision in accordance with ARM 8.32.1726; and

(d) inform the patient of the decision to delegate.

(4) The nursing task to be delegated must be:

(a) within the area of responsibility, scope of practice, and competency of the nurse delegating the task;

(b) one which does not require complex observations, critical decision-making, exercise of nursing judgment, or repeated nursing assessments;

(c) one which is frequently performed and is generally considered technical in nature;

(d) one for which results are reasonably predictable and which has minimal potential for risks; and

(e) one which can be safely performed according to exact, unchanging directions. (History: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p. 1022, Eff. 7/1/05.)

8.32.1725 STANDARDS RELATED TO THE FACILITY'S CHIEF NURSING OFFICER REGARDING DELEGATION PRACTICES (1) The facility's chief nursing officer is responsible for ensuring that:

(a) the UAP is oriented to the facility and specific role;

(b) the UAP's skills are observed, evaluated and documented;

(c) a written UAP job description, specific to setting, is provided to the UAP and to the delegator;

(d) with respect to advanced delegation as provided in ARM 8.32.1729, 8.32.1730, 8.32.1731 and 8.32.1732, the UAP's satisfactory completion of education and maintenance of certification is verified;

(e) verification is performed of a nursing student's:

(i) current enrollment and good academic standing in a nursing education program approved by a state nursing board or a state nursing commission;

(ii) satisfactory completion of each academic period; and

(iii) current level of educational preparation, with a minimum of satisfactory completion of a course in the fundamentals of nursing as documented by official

educational institution transcript and by course description;

(f) a name badge which includes first and last name and specific title in standard, bold face font no less than 18 point is provided to the UAP and is worn at all times when on duty, with the exception of settings requiring sterile attire;

(g) each nurse in the organization is educated on the process of delegation and the nurse's competency to delegate in accordance with these rules is assessed; and

(h) policy and procedures concerning delegation of nursing tasks are developed and implemented consistent with this subchapter.

(2) A violation of any rule in this subchapter constitutes unprofessional conduct under ARM 8.32.413. (History: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p. , Eff. 7/1/05.)

8.32.1726 STANDARDS RELATED TO THE NURSE FUNCTIONING AS A DELEGATOR

(1) The degree of required supervision of the UAP by the delegating nurse shall be determined by the delegating nurse after evaluation of factors described in this subchapter including, but not limited to, the following:

(a) stability of the patient's condition;

(b) training and capability of the specific UAP delegatee;

(c) nature of the nursing task being delegated;

(d) proximity and availability of the nurse to the UAP when the nursing task will be performed; and

(e) setting:

(i) In an acute care or skilled nursing facility setting, the delegating nurse shall provide, at a minimum, direct supervision for any delegated nursing task.

(ii) For advanced delegation as authorized in ARM 8.32.1729, 8.32.1730, 8.32.1731 and 8.32.1732, the delegating nurse shall provide immediate supervision for any delegated nursing task.

(iii) In nonacute settings, the delegating nurse shall provide, at a minimum, indirect supervision for any delegated nursing task.

(2) In nonacute settings, unless otherwise provided in this rule or indicated by the situation, the delegating nurse shall make a supervisory visit at least monthly to:

(a) evaluate the patient's health status;

(b) evaluate the performance of the delegated nursing task;

- (c) determine whether goals are being met; and
  - (d) determine the appropriateness of continuing delegation of the task.
- (3) The delegating nurse is accountable for the:
- (a) safety of the patient;
  - (b) nursing process;
  - (c) patient assessment; and
  - (d) delegation of nursing tasks appropriate to the UAP's documented knowledge, skills, and abilities.
- (4) Violation of any rule in this subchapter constitutes unprofessional conduct under ARM 8.32.413. (History: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p. , Eff. 7/1/05.)

8.32.1727 NURSING TASKS RELATED TO MEDICATIONS THAT MAY BE DELEGATED (1) Administration of medication may only be delegated by the nurse in the following settings:

- (a) schools;
- (b) hospice residential facilities;
- (c) Montana state prison;
- (d) women's correctional center; and
- (e) community based residential settings not defined as health care facilities in Title 50, chapter 5, MCA, except as otherwise provided herein.

(2) Medications administered pursuant to (1) are limited to the following types of medications and routes:

- (a) pharmacy-prepared or authorized prescriber-prepared medications introduced into the body by inhalant dispenser or nebulizer;

- (b) oral medication taken from:

- (i) a prefilled, labeled medication holder;
- (ii) a labeled unit dose container; or
- (iii) an original marked and labeled pharmacy container;

- (c) oral medication, either in liquid form which must be measured or in tablet form which must be broken, provided the nurse has calculated the dose and amount to be administered;

- (d) suppository medication taken from:

- (i) a prefilled, labeled medication holder;
- (ii) a labeled unit dose container; or
- (iii) an original marked and labeled pharmacy container;

- (e) topical ointments, except as provided in ARM 8.32.1728; and

- (f) ear drops and eye drops taken from:

- (i) a prefilled, labeled medication holder;

- (ii) a labeled unit dose container; or
- (iii) an original marked and labeled pharmacy container.

(3) In advanced delegation, administration of medication is restricted as specified in ARM 8.32.1729, 8.32.1730, 8.32.1731 and 8.32.1732. (History: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p. , Eff. 7/1/05.)

NURSING 8.32.1728

8.32.1728 GENERAL NURSING FUNCTIONS AND TASKS THAT MAY NOT BE DELEGATED (1) The following nursing functions require nursing knowledge, judgment, and skill and may not be delegated:

- (a) the nursing assessment;
- (b) development of the nursing diagnosis;
- (c) establishment of the nursing care goal;
- (d) development of the nursing care plan; and
- (e) evaluation of the patient's progress, or lack of progress, toward goal achievement.

(2) Nursing interventions, including but not limited to the following, require nursing knowledge, judgment, and skill and may not be delegated except as provided in ARM 8.32.1727, 8.32.1729, 8.32.1730, 8.32.1731 and 8.32.1732:

- (a) calculation of any medication dose;
- (b) administration of medications:
  - (i) by mouth;
  - (ii) sublingually;
  - (iii) by subcutaneous injection;
  - (iv) by intramuscular injection;
  - (v) intravenous injection or drip;
  - (vi) per tube;
  - (vii) by aerosol/inhalation; or
  - (viii) by suppository;
- (c) administration of topical:
  - (i) opiates;
  - (ii) cardiovascular medications;
  - (iii) anesthetic medications; or
  - (iv) systemic medications;
- (d) administration of blood products;
- (e) administration of chemotherapeutic agents; and
- (f) administration of total parenteral nutrition (TPN), hypertonic solutions, or IV additives;
- (g) insertion of peripheral IV catheters;
- (h) insertion of central IV catheters;
- (i) insertion of nasogastric or other feeding tubes;
- (j) removal of:

- (i) endotracheal tubes;
- (ii) chest tubes;
- (iii) Jackson-Pratt drain tubes (JP tubes);
- (iv) arterial or central catheters; and
- (v) epidural catheters; and
- (k) patient triage.

(3) A nurse may not delegate to a UAP the authority to receive verbal orders from providers.

(4) A nurse may not delegate to a UAP the task of teaching or counseling patients or a patient's family relating to nursing and nursing services. (History: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p. , Eff. 7/1/05.)

8.32.1729 ADVANCED DELEGATION, GENERALLY (1) The board recognizes that certain UAPs are prepared by specialized education and training to receive delegation of advanced nursing tasks as provided in ARM 8.32.1730, 8.32.1731 and 8.32.1732. Delegation of advanced nursing tasks must be from a nurse authorized to delegate the specified advanced nursing tasks, in settings and populations congruent with the UAPs' respective specialized education and training. (History: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p. 1022, Eff. 7/1/05.)

8.32.1730 ADVANCED DELEGATION TO UAPS WORKING IN THE EMERGENCY DEPARTMENT (1) A UAP working in a facility's emergency department may receive delegation of the advanced nursing tasks identified in this rule if:

(a) the delegation is made in the emergency department;

(b) the delegation is for a patient seeking emergency health care services; and

(c) the UAP:

(i) is under the immediate supervision of the delegating nurse;

(ii) possesses current national registry of emergency medical technicians (NREMT) registration at the intermediate or paramedic level; and

(iii) is competent to perform the advanced nursing tasks identified in this rule.

(2) A UAP working in the facility's emergency department may receive delegation of the following nursing tasks:

(a) insertion of peripheral IV catheters; and

(b) hanging, without additives, initial IV fluids including:

- (i) lactated Ringer's (LR);
- (ii) normal saline (NS);
- (iii) 5% dextrose in sterile water (D5W);
- (iv) 5% dextrose in normal saline (D5NS);
- (v) 5% dextrose in .45% saline (D5 1/2NS); and
- (vi) 5% dextrose in lactated Ringer's (D5LR).

(History: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p. 1022, Eff. 7/1/05.)

8.32.1731 ADVANCED DELEGATION TO UAPS WORKING IN THE DIALYSIS UNIT (1) A UAP working in a dialysis unit may receive delegation of advanced nursing tasks identified in this rule if:

(a) the delegation is made in an out-patient dialysis unit;

(b) the delegation is for an established adult dialysis patient who has been on dialysis for more than 30 days; and

(c) the UAP is:

(i) under the immediate supervision of the delegating nurse; and

(ii) is currently certified as a certified dialysis technician by either the:

(A) nephrology nursing certification commission (NNCC); or

(B) board of nephrology examiners - nursing and technology (BONENT).

(2) The UAP working in the dialysis unit may receive delegation of the following advanced nursing tasks:

(a) preparing dialysate according to established procedures and the dialysis prescription;

(b) assembling and preparing the dialysis extracorporeal circuit according to protocol and dialysis prescription;

(c) preparing and cannulating of mature fistula/graft. Maturity/stability of the graft will be established by a nurse prior to cannulation;

(d) initiating, delivering or discontinuing the dialysis treatment;

(e) obtaining a blood specimen via a dialysis line or a fistula/graft site; and

(f) administering the following medications under the immediate supervision of an RN:

(i) heparin, only in concentrations of 1:1000 units or less, in an amount prescribed by an individual

authorized by Montana statute to so prescribe:

- (A) to prime the extracorporeal circuit;
- (B) to initiate treatment; and/or
- (C) for routine administration throughout the treatment;

- (ii) normal saline via the dialysis machine to correct dialysis-induced hypotension;

- (iii) intradermal anesthetics, in an amount prescribed by an individual authorized by Montana statute to so prescribe, as an integral part of the vascular access cannulation procedure; and

- (iv) oxygen by nasal cannula. (History: Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p. 1022, Eff. 7/1/05.)

#### 8.32.1732 ADVANCED DELEGATION TO UAP NURSING STUDENTS

(1) A nursing student who is working as a UAP in any setting may receive delegation of the advanced nursing tasks identified in this rule if:

- (a) the UAP nursing student is supervised at the level determined by the delegating nurse in accordance with these rules; and

- (b) the nursing student is:

- (i) currently enrolled in a state nursing board-approved nursing education program or a state nursing commission-approved nursing education program;

- (ii) in good academic standing; and

- (iii) whose satisfactory completion of a course in the fundamentals of nursing, as defined in ARM 8.32.1722, has been verified by the facility's chief nursing officer; and

- (iv) as a condition of receiving delegation of medication administration, has satisfactorily completed a pharmacology course, as defined in ARM 8.32.1722 and completion has been verified by the facility's chief nursing officer.

(2) A UAP nursing student may receive delegation of the following advanced nursing tasks:

- (a) calculation of medication dose;

- (b) administration of medications:

- (i) by mouth;

- (ii) sublingually;

- (iii) by subcutaneous injection;

- (iv) by intramuscular injection;

- (v) per tube;

- (vi) by aerosol/inhalation; and

- (vii) by suppository;

- (c) administration of topical:
  - (i) opiates;
  - (ii) cardiovascular medications;
  - (iii) anesthetic medications; and
  - (iv) systemic medications;
- (d) insertion of peripheral IV catheters;
- (e) hanging, without additives, IV fluids including:
  - (i) lactated Ringer's (LR);
  - (ii) normal saline (NS);
  - (iii) 5% dextrose in sterile water (D5W);
  - (iv) 5% dextrose in normal saline (D5NS);
  - (v) 5% dextrose in .45 saline (D51/2NS); and
  - (vi) 5% dextrose in lactated Ringer's (D5LR);
- (f) adjusting IV flow rates; and
- (g) any other nursing tasks for which the student has received instruction within the nursing program, as confirmed by official transcript and course description, and allowed by facility job description.

(3) A UAP nursing student may not receive delegation of:

- (a) the nursing assessment;
- (b) development of the nursing diagnosis;
- (c) establishment of the nursing care plan;
- (d) development of the nursing care plan;
- (e) evaluation of the patient's progress, or lack of progress, toward goal achievement;
- (f) patient triage;
- (g) medication administration by intravenous injection or drip;
- (h) administration of:
  - (i) blood products;
  - (ii) chemotherapeutic agents; or
  - (iii) total parenteral nutrition (TPN), hypertonic solutions, or IV additives;
- (i) insertion of:
  - (i) central IV catheters; or
  - (ii) nasogastric or other feeding tubes;
- (j) removal of:
  - (i) endotracheal tubes;
  - (ii) chest tubes;
  - (iii) Jackson-Pratt drain tubes (JP tubes);
  - (iv) arterial or central catheters; or
  - (v) epidural catheters;
- (k) ability to receive verbal orders from providers;

and

- (l) teaching or counseling a patient or a patient's family relating to nursing and nursing services. (History:

Sec. 37-1-131, 37-8-202, MCA; IMP, Sec. 37-1-131, 37-8-202, MCA; NEW, 2005 MAR p. 1022, Eff. 7/1/05.)

8.32.1733 TASKS WHICH MAY BE ROUTINELY ASSIGNED TO AN UNLICENSED PERSON IN ANY SETTING WHEN A NURSE-PATIENT RELATIONSHIP EXISTS (1) The following are tasks that are

not within the exclusive scope of a licensed nurse's practice and may be within the scope of sound nursing practice to be assigned to a UAP:

- (a) non-invasive and non-sterile treatments unless otherwise prohibited by these rules;
- (b) the collecting, reporting, and documentation of data including, but not limited to:
  - (i) vital signs, height, weight, intake and output;
  - (ii) changes from baseline data established by the nurse;
  - (iii) environmental situations;
  - (iv) patient or family comments relating to the patient's care;
  - (v) behaviors related to the plan of care.
- (c) ambulation, positioning, and turning;
- (d) personal hygiene and elimination;
- (e) oral feeding, cutting up food, or placing of meal trays;
- (f) socialization activities;
- (g) activities of daily living;
- (h) assisting with self-administration of medications where the following acts are used:
  - (i) verbal suggestions, prompting, reminding, gesturing, or providing a written guide for self-administering medications;
  - (ii) handing a prefilled, labeled medication holder, labeled unit dose container, syringe, or original marked, labeled container from the pharmacy to the patient;
  - (iii) opening the lid of the above-referenced container for the patient;
  - (iv) guiding the hand of the patient to self-administer the medication;
  - (v) holding and assisting the patient in drinking fluid to assist in the swallowing of oral medications;
  - (vi) assisting with removal of a medication from a container for residents with a physical disability which prevents independence in the act. (History: Sec. 37-8-202, MCA; IMP, Sec. 37-8-202, MCA; NEW, 1994 MAR p. 1424, Eff. 5/27/94; TRANS & AMD, 2005 MAR p. 1022, Eff. 7/1/05.)