



Delegation, The Nurse Practice Act, and School Nursing in Wisconsin

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This publication is available from:

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This document available electronically at:
<http://dpi.wi.gov/sspw/pdf/snpracticeact.pdf>

Bulletin No. 00011

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Printed on Recycled Paper

Introduction

All nurses share a common foundation of responsibility and accountability that is outlined by the practice of nursing and consistent with their level of licensure. The nurse's scope of practice or set of knowledge and skills are derived from the legal authority in Wisconsin Chapter 441, commonly referred to as the Nurse Practice Act. The Nurse Practice Act is comprised of two subchapters called the Regulation of Nursing and the Nurse Licensure Compact. Regulation of Nursing defines the basic statutory responsibilities, requirement for the examination and licensure of nurses and authority of the board of nursing for disciplinary action. The second subchapter, Nurse Licensure Compact sets the requirement for the multi-state agreement of practice privileges of nurses licensed in other states, which are members of the compact and practicing out of their original state of licensure.

The scope of practice of nurses is further defined by the Wisconsin Administrative Code, N6, Standards of Practice of the Registered Nurse and Licensed Practical Nurse. The code defines the minimum practice standards for registered nurses and licensed practical nurses. Registered nurses use the nursing process including assessment, planning, intervention and evaluation, in providing nursing care. An individual nurse can broaden the minimum practice standards with additional education, training and experience and still stay within the scope defined by the level of licensure. An example of a nurse that has gained additional skills and knowledge would be the school nurse that has obtained the Wisconsin Department of Public Instruction optional school nurse license. Nurses' responsibilities for tasks delegated to them by a medical provider include direction and competence to perform the task with consultation and supervision of the medical provider. The law goes on to define the responsibilities involved in the process of delegation of a nursing task to someone less skilled. Delegation of a nursing task involves assessment of the knowledge and skill level of those supervised, providing direction, assistance, observation and monitoring of those supervised and evaluation of the outcome of the performed task.

This document has been prepared in a question and answer (Q&A) format to provide a more straight forward translation of how the Nurse Practice Act and Standards of Practice impact the unique nature of providing nursing care within the school environment. A particular focus is on the delegation of school health services by school nurses. The complete version of these statutes and administrative code are available online at <http://www.legis.state.wi.us>. The Wisconsin Board of Nursing has reviewed this question and answer document and finds the information consistent with the Wisconsin Nurse Practice Act.

Questions

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Questions and Answers

1. What are the legal definition and educational requirements of the school nurse?

The legal definition of the professional nurse is defined in Wisconsin Chapter 441 also known as Nurse Practice Act. Professional nursing is defined as the performance for compensation of "any act in the observation or care of the ill, injured, or infirm, or for the maintenance of health or prevention of illness of others that requires substantial nursing skill, knowledge or training, or application of nursing principles." The law goes on to say that professional nursing includes:

1. the observation and recording of symptoms and reactions,
2. the execution of procedures and techniques in treating the sick under the general or special supervision of a physician, dentist, podiatrist, optometrist or licensed to practice medicine in Wisconsin or any other state,
3. the execution of general nursing procedures and techniques, and
4. supervision of a patient and the supervision and direction of a licensed practical nurse and less skilled assistants.

Professional registered nurses have two options for educational preparation including the associate and baccalaureate degree. The associate degree includes a two-year course of study of basic nursing principles. The baccalaureate degree includes a four-year course of study of basic nursing principles with public health knowledge and leadership skills.

By law, individuals may not use the title, initials or practice as a registered nurse unless they are licensed with the Wisconsin Board of Nursing or other states in the nurse licensure compact (Wis. Stat. sec. 441.06(4)). A school nurse is defined in Wisconsin Stat. sec. 115.001(11) as a registered nurse licensed under the Wis. Stat. ch. 441, who is certified by the Department of Public Instruction as qualified to perform profession nursing services in a public school. Wisconsin Administrative Code PI 34.31(2) states that department licensure for school nurses is optional.

2. What are the legal definition and educational requirements of a licensed practical nurse?

The legal definition of a licensed practical nurse (LPN) is outlined in Wisconsin Chapter 441 or the Nurse Practice Act. Licensed practical nursing is defined as the performance for compensation of any “simple act” in the care of the sick, injured or convalescing person or more acutely ill or injured person under the specific direction of a nurse or dentist, podiatrist, optometrist, or medical provider. Simple act is then defined as the act that “does not require any substantial nursing skill, knowledge or training or the application of nursing principles based on biological, physical, or social sciences, or the understanding of cause and effect in the act.” The administrative code goes on to say that a licensed practical nurse can do the following under the general supervision of a nurse, or direction of physician, podiatrist, dentist or optometrist:

1. Accept patient assignment for which the practical nurse is competent to perform;
2. Provide basic nursing care;
3. Record nursing care and report changes in patient health care status to appropriate persons;
4. Consult with a nurse or other medical professional providing supervision or direction when a delegated nursing or medical act may harm the patient;
5. Performance of other acts including: assist with data collection and development and revision of nursing care plan.
6. Reinforce teaching provided by other medical personnel and meeting basic patient care needs.

A licensed practical nurse’s education is a one-year program, focused on basic practical nursing skills (Wis. Stat. sec. 441(3)). LPNs must practice under supervision of a registered nurse or medical provider (Wis. Admin. Code sec. N 6.04(3)).

3. What is nursing delegation as it applies to the school setting?

A registered nurse may decide to delegate a nursing task to a licensed practical nurse (LPN) or school personnel without a health care license if a student requires the administration of medications or performance of nursing procedures during the school day to benefit from their education. Delegation is a legal term that refers to the transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation.¹ The registered nurse must determine if the task is appropriate to the educational preparation and demonstrated abilities of the personnel being asked to perform the task. When the nurse delegates a nursing task, the process starts by training school personnel to perform a

nursing task. After the initial training, the registered nurse must also provide ongoing observation, monitoring, direction, and assistance to those performing the task (Wis. Admin. Code sec. N 6.03(3)(a-d)). When nurses delegate, they should have adequate time in the school or the school district to perform these required tasks.²

4. Does the Nurse Practice Act apply to the delivery of health services for children attending preschool programs, day care centers, summer programs, residential programs, and camp programs?

The Nurse Practice Act applies to all people licensed as an RN or LPN in any setting in which they practice, including a volunteer position. Different settings may have policies and procedures that govern activity in that particular setting. However, the state law and administrative rules governing the practice of nursing in Wisconsin apply to all settings. A school district, day care setting, or another agency or organization cannot do less than what the law requires (Wis. Stat. sec. 441.001).

5. What types of nursing acts may be delegated and to whom?

There is not a state statute listing nursing tasks that are appropriate for delegation to school staff without a health care license. The decision to delegate the nursing task is based on the nurse's assessment of the complexity of the nursing task and care, predictability of the health status of the student, and the educational preparation and demonstrated abilities of the school staff without a health care license. Nursing tasks may be categorized as simple or complex. Simple nursing tasks are more likely to be eligible for delegation than complex nursing tasks. Simple nursing tasks can be described as tasks that do not require substantial nursing skill, knowledge, or training, or the application of nursing principles based on biological, physical, or social sciences or the understanding of cause and effect of the act (Wis. Stat. sec. 441.001 (3)(b)(1)).

Similarly, there is a distinction between basic and complex nursing care. When a student's health is predictable and does not require frequent or complex modifications in medical provider's orders or plan of care, then the student requires basic nursing care. Complex nursing care is when the student's health condition and response to intervention is not predictable requiring frequent changes or modification of the medical provider's orders and nursing plan of care (Wis. Admin. Code sec. N 6.02(3)). Complex nursing care cannot be delegated to people without a health care license. Nursing tasks may be delegated when the task does not require assessment and evaluation of the student's health and modifications to the plan of care. The school nurse determines the necessary training required to safely delegate the nursing task to school staff without a health care license.

While employers and administrators may suggest which nursing acts should be delegated and/or to whom the delegation may be made, it is the nurse who must make, and is legally responsible for making, the decision whether, and under what circumstances, the delegation occurs. If the nurse decides that the delegation may not appropriately or safely take place, then the school nurse should not engage in such delegation (Wis. Admin. Code sec. N 6.03(2)(c)). Nurses are encouraged to work with school district

administrators to problem solve solutions to the issues of delegation.

6. What are some of the criteria that a nurse might use in determining if a nursing-related task may be delegated?

The delegated nursing task must be within the responsibilities of the nursing license. The nurse must have the nursing education, training, and experience to delegate the nursing task. The nursing task that is delegated must be commensurate with the educational preparation and abilities of the employee accepting the delegation. The nurse must provide supervision, direction, and assistance to the employee and provide observation and monitoring of the delegated tasks (Wis. Admin. Code sec. N 6.03 (3)). If the employee accepts the nursing task of administration of a non-oral medication, then the employee must also be willing (Wis. Stat. sec. 118.29(5)). It is also considered best practice by the National Association of School Nurses that delegated tasks be routine, predictable, and repetitive and do not require any nursing judgment for completion of the task.³ The Wisconsin Nurse's Association has provided an algorithm for decision making regarding delegation.⁴ The National Council of State Boards of Nursing has an available delegation decision-making tree.⁵

7. What are the Wisconsin Board of Nursing directives regarding nursing tasks that may not be delegated to school personnel without a health care license?

The Board of Nursing has indicated that there are two nursing tasks that may not be delegated. The first nursing task is the performance of IV therapy, including starting peripheral IV lines, adding medication to the intravenous fluids and monitoring of intravenous fluids for hydration purposes. It is the opinion of the Wisconsin Board of Nursing that delegation of these nursing acts requires direct supervision, and the board has interpreted direct supervision, as defined in Wis. Admin. Code sec. N 6.02(6), as necessitating on-site supervision. Accordingly, the nurse supervising the LPN in the performance of IV therapy must be physically present in the facility and immediately available. It is not the board's intent that observation of IV infusions on controlled infusion pumps by the LPN requires direct supervision. If the nurse pre-programs the IV infusion on a controlled pump and performs the client assessment, then the LPN may monitor the infusion under general supervision of the nurse and report any concerns or problems with the infusion to the nurse.

Second, the Wisconsin Board of Nursing also indicated that the nursing tasks of assessment and evaluation may not be delegated to a less skilled individual. LPNs and school staff without a health care license may assist the nurse in these functions by providing health information, but may not perform them in their entirety.

8. What are the general steps involved in the process of nursing delegation?

There are general steps involved in the process of delegation. The steps of the delegation can be performed by one or several nurses working collaboratively.

1. Determine the appropriateness of the delegation of the nursing task to school personnel without a health care license. Nurses may find the use of the Wisconsin Nurses Association⁴ delegation algorithm or the National Council of State Boards of Nursing⁵ delegation decision-making tree helpful in this process.

2. Determine if the delegated nursing task is commensurate with the nurse's education, training, and experience. The Wisconsin Board of Nursing has a scope of practice decision making tree designed to assist nurses with this process.⁷
3. Assess the student's health status, environment, and available resources to determine the predictability of the outcomes of the nursing task.
4. Assess the school personnel's willingness and ability to perform the nursing task.
5. Provide the training of the school personnel. Nurses need to document competency level of the school personnel's knowledge and skill acquisition.
6. Provide the school personnel with contact information for the nurse and plan for the nurse's back-up as needed.
7. Supervise and evaluate performance of the school personnel's ability to perform the delegated nursing task.
8. Document the student's health status, delegated task, school personnel performance of the task, and competency and evaluation of the outcomes of the nursing tasks.

Adapted with permission from the Wisconsin Nurses Association Guidelines for Registered Nurse Delegation to Unlicensed Assistive Personnel.⁴

9. How often should the registered nurse monitor the delegation of a procedure?

Frequency and extent of monitoring depend on the health status of the student, the complexity of the procedure, as well as the learning style of the person doing the procedure. For example, monitoring a tube feeding that has very predictable steps for a child with a history of tolerating this procedure well may require less supervision than for insulin administration to a child newly diagnosed with Type 1 Diabetes. The complexity of the task and the need for monitoring an oral medication administration is usually less involved than that for an injectable medication. The level of training, experience, and educational preparation of the person assuming the delegation from the nurse will also determine the monitoring needs. The nurse may rescind delegation of the nursing task whenever he/she believes that the student's safety is being compromised or for other reasons according to the judgment of the nurse.³

10. What is the difference between training and delegation?

Training is the process of providing general health information to others regarding a health skill, condition, injury, medication or procedure. When the training becomes specific to a certain child's health care needs, medications and/or procedures, then the training by the nurse is part of the process of delegation. The process of delegation includes: instruction regarding the plan of care, administration of medication and/or procedure; direction, assistance, and observation of those supervised; and evaluation of the effectiveness of the delegated nursing act.

For example, a nurse providing instruction to school personnel regarding the effectiveness of administration of rectal valium to students who are experiencing on-going continuous seizure activity would be training. When a nurse provides training to school personnel who will be responsible to administer rectal valium to a specific student after three minutes of continuous seizure activity, then training becomes part of the process of the delegation. The nurse must provide direction, assistance, observation and

monitoring of activities to those supervised and evaluation of the effectiveness of the task performed under their supervision.

11. What is the nurse's professional responsibility regarding delegation to school personnel without a health care license?

The delegating nurse is responsible for the act of delegating and for supervising and evaluating the delegated tasks. If the nurse decides that delegation may not appropriately or safely take place, but nonetheless makes the delegation, he or she may be disciplined by the Board of Nursing for negligent practice (Wis. Admin. Code sec. N 6.03(3)). The delegation of a nursing task to school personnel without a health care license carries legal implications for the delegating nurse. However, if the delegating nurse has taken steps to ensure the task is delegated properly and that appropriate training, supervision, monitoring and evaluation is provided, the liability risk may be minimized.

12. Can a school nurse refuse to administer a prescribed medication or nursing procedure?

Yes, under certain circumstances a school nurse may refuse to provide certain nursing services. A nurse can only accept a medical act or task delegated by a medical provider for which the nurse is competent to perform, based on the nurse's education, training, or experience. However, the nurse's inability to perform the task does not erase the school district's obligation to provide the nursing service for the student to benefit from his/her education. The nurse may have to secure specialized training or another health care provider may need to be employed by the school district to meet the student's health care needs. The nurse must refuse to perform a delegated task if the nurse suspects performance of the task may harm the student. If a nurse believes that medical directive is not safe or not appropriate, the nurse cannot legally comply with the order (Wis. Admin. Code 6.03(2)(c)) If the nurse complies, the nurse could face disciplinary action by the Wisconsin Board of Nursing (Wis. Admin. Code sec. N 6.05). If a nurse refuses to administer a medication or perform a procedure, he/she must notify the prescribing medical provider and parent.

13. May school personnel without a health care license refuse to accept the delegation of a nursing task?

Absent a contractual requirement, a prospective delegate is not required to accept the responsibility to administer non-oral medication, even though such delegation may be appropriate given the person's education, training, or experience (Wis. Stat. sec. 118.29(5)). Although Wisconsin state law is silent on the need for school personnel without a health care license to agree to perform other nursing tasks, it is considered best practice.⁴ Individuals who are willing to perform a nursing procedure are often motivated to provide quality care. The prospective delegate should be required to immediately inform the nurse of any refusal to accept the delegation. Also, the delegate may not transfer the delegation or the responsibility of a nursing task to another staff person without a health care license. An employee's responsibility to perform a delegated nursing task may be part of the employee's job description. In such cases, the employee's agreement to perform a nursing task, with appropriate training and supervision, may be a stipulation of their employment.

14. What is the difference between assignment and delegation of a medication?

School administrators and principals have the authority to assign a school district, county children with disabilities education board, and cooperative education service agency employee or volunteer to administer prescription and over-the-counter medication. This assignment must be authorized by the principal in writing. Delegation is a term that is reserved for the relationship between the nurse and the individual that is performing the task. This is a responsibility that is regulated by sec. N 6, Standards of Practice for Registered Nurses and Licensed Practical Nurses (Wis. Admin. Code sec. N 6.03).

15. May a parent delegate to a nurse?

No, a parent may not delegate to a nurse. Nurses are mandated by the Standards of Practice to accept delegation from medical providers (Wis. Admin. Code sec. N 6.03(2)(a)). Individuals who are employed in an educational setting and administering medication in the school must receive appropriate instruction (Wis. Stat. sec. 118.29(4)).

The parent could come into a school and instruct school staff regarding medication administration without the assistance of a nurse. In this model, the authority for performing the task comes from the parent.⁶ However, written permission from medical provider and parent is still required as indicated in Wis. Stat. sec. 118.29(2).

References

1. The National Council of State Boards of Nursing definition of nursing delegation can be viewed at: <https://www.ncsbn.org/323.htm#Definitions>
2. Wisconsin Board of Nursing White Position Paper on Delegation can be viewed at: <http://drl.wi.gov/boards/nur/pap/pap05.pdf>
3. National Association of School Nursing Position Statement on Delegation can be viewed at: <http://www.nasn.org/Default.aspx?tabid=349>
4. Wisconsin Association of Nurses, Guidelines for Registered Nurse Delegation to Unlicensed Assistive Personnel can be viewed at: http://www.wisconsinnurses.org/work_advoc/pdf_files/uaps.pdf
5. National Council of State Boards of Nursing delegation decision-making tree can be viewed at: <https://www.ncsbn.org/delegationtree.pdf>
6. Wisconsin Board of Nursing White Position Paper on Delegation can be view at: <http://drl.wi.gov/boards/nur/pap/pap05.pdf>
7. Wisconsin Board of Nursing White Position Paper on Scope of Practice Decision Tree: Guidelines for R.N. and L.P.N. Practice can be viewed at: <http://drl.wi.gov/boards/nur/pap/pap29.pdf>